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ABSTRACT

A House subcommittee hearing received testimony on educational programs for Native American children, in the context of proposed reauthorization of the Elementary and Secondary Education Act, Title 9, Part A. Congressmen, representatives of the Bureau of Indian Affairs (BIA) and the National Indian Education Association, and American Indian educators and administrators presented oral and written statements. Topics included reforms in BIA schools; the FACE (Family and Child Education) program, which provides family services from the prenatal period through third grade; underfunding of the BIA school system; proposed changes to the Indian School Equalization Formula; the need for tribal departments of education; facility needs on the Navajo Nation and elsewhere; a boarding school that focuses on student needs and on helping every student reach mastery levels; concerns that the reauthorization may eliminate important programs; successful Title IX programs at Rocky Boy Public Schools (Montana); and development of tribal education standards. Appendices include the text of the revised legislation with the Navajo Nation's recommended changes. (SV)

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EXAMINING EDUCATION PROGRAMS BENEFITING NATIVE AMERICAN CHILDREN

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HEARING

BEFORE THE

SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC
JULY 20, 1999

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EXAMINING EDUCATION PROGRAMS BENEFITTING NATIVE AMERICAN CHILDREN

Tuesday, July 20, 1999

House of Representatives,
Subcommittee on Early Childhood,
Youth, and Families

Committee on Education and the Workforce,

Washington, D.C.

The Subcommittee met, pursuant to call, at 1:30 p.m., in Room 2175, Rayburn House Office Building, Thomas E. Petri (Chairman of the Subcommittee) presiding.

Present: Representatives Tancredo, DeMint, Kildee, Woolsey, Kucinich, and McCarthy.

Staff Present: Castleman, Conant, Renard, Selmser, Wood, Harris, Nock, and Folescu.

Mr. Petri. The Subcommittee will come to order.

The Subcommittee Chairman, Mike Castle, asked me to apologize. He had a conflict, but otherwise would be here. I would like to welcome you to the next in our series of hearings in preparation for the Reauthorization of the Elementary and Secondary Education Act.

Today, we will hear testimony on programs that benefit Native American children. Before making the rest of my remarks, I would like to thank the Ranking Minority Member, Mr. Kildee for being with us today. As the co-Chairman of the Congressional Native American Caucus, Mr. Kildee has been one of the leading proponents of education programs serving Native American youth.

More importantly, he has been a wealth of knowledge on how these programs work. I look forward, as do other members of the Committee, to working with him as we move ahead. There are also a number of Republican members, including our Committee Chairman, Mr. Goodling, who would be with us, but who is on the Floor managing a bill as we gather.. Chairman Goodling has supported these programs in the past and has

expressed a strong interest in improving the way they work.

In my own Congressional District in Wisconsin, five school districts receive funds under Title 9, Part A of the ESEA, for a total of $93,000 to supplement the education of Native American students. So, I know the value of this program. All of us, Republicans and Democrats alike, want to ensure that our children receive the best education possible.

As Mr. Kildee often reminds me, we have a special obligation in the form of a treaty between the United States Government and the Sovereign Tribal Nations to meet the education needs of Native American children. For this reason, I am particularly concerned about the high dropout rate for Native American students, which is currently well- above our National average.

As the Subcommittee begins to craft legislation, my goal will be to ensure that Native American students have the same access to quality education programs that all of our citizens deserve, and that our educators have the tools they need to improve the education outcomes for Native American students.

The first program we will look at today is the Bureau of Indian Affairs' Elementary and Secondary Education Program. While this program is not specifically authorized under the Elementary and Secondary Act, we have traditionally used reauthorization of the act as a vehicle for making improvements to this program as well.

The BIA Program is the largest program for the education of Native American students. Under this program, the students attend schools operated by the BIA or the Tribal Governments under grant or contract arrangements with the Bureau.

Funding for school operations is based on the Indian Student Equalization Formula, and students are assigned a relative weight based on the cost associated with their education. The second program we will look at today is operated by the Department of Education under Title 9, Part A of ESEA. This program provides funds to improve and enrich the quality of education received by Native American students.

Most of these funds are distributed on a formula basis, based on the number of Indian children in the LEA or at the BIA-funded school. Despite the current high dropout rate among Native Americans, I am encouraged that Tribal Governments are increasingly taking control of schools through grant or contract arrangements.

In the near-term, I hope this will translate into better academic achievements among our Native American students. In addition, I understand that strides are being made in Native American Family Literacy Programs. I look forward to learning more about successes in this area.

We have a large panel today and a lot of ground to cover. I will stop here and thank our witnesses for their appearance before this Subcommittee. We work to update and improve these programs. The other members of the Committee and I will do our best to improve the quality of the service provided and increase flexibility for participating schools and Tribes. I look forward to hearing your ideas on how we can do this. I would like to yield to Mr. Kildee for his opening statement.

See Appendix A for the Written Statement of Vice-Chairman Thomas E. Petri, Member of Congress From Wisconsin

Mr. Kildee. Thank you very much, Mr. Petri.

I appreciate this hearing this morning on Indian Education Programs. I know that both of us are looking forward to hearing today's testimony on these very vital Federal investments. I would like to call attention to the fact that a former member staff of this Committee is in the room, Alan Lovesey.

Alan, about 22 years ago, accompanied me as I toured BIA schools, and public schools that receive Johnson-O'Malley Funds. We toured through Indian Country. He was a great mentor and we are glad to have you here today, Alan.

The programs operated both by the Bureau of Indian Affairs and the U.S. Department of Education are extremely important to ensuring a high quality education for Indian children in meeting the Federal Constitutional responsibility toward Native Americans.

Whether it be funding provided through Title 9 of the Elementary and Secondary Act, or through Bureau-operated or funded schools, the goal is singular; to provide Indian children with the opportunities, the resources, and the facilities that are provided to non-Indian children in this Country, no less than that.

Moreover, these programs began to address the Federal responsibility. That Federal responsibility is contained in our treaties which the Constitution, which I carry with me all the time. The Constitution states in Article 6, that this Constitution and all treaties entered into, are the supreme law of the land.

Back in 1981 when the Federal Government was beginning to retrench in its responsibility to education, I recall reminding this Committee that if we were to remove all supportive education, we could not remove it from the Indians of this Country, the Native American.

I have read the Treaty of Detroit. We took millions of acres of land from the Ottawa, the Chippawa, and the Potawatomi; gave them very little in return, but we did promise them education. I reminded the Committee then that if we were to go back to zero for others, which I would not advocate.

I would like to raise it higher for everybody, we could not do that to the Indians because we have treaty responsibilities which is the supreme law of the land. It is my hope that we take the lessons learned at today's hearing and apply it for our work in this Congress.

Only after we have heard the voices from Indian Country can we truly understand and appreciate the task before us. All of you here at this table have an awesome responsibility to deliver education. We have an awesome responsibility to give you the means to deliver that education. I take that very seriously.

I thank you for your presence here today.

See Appendix B for the Written Statement of Ranking Member Dale E. Kildee Member of Congress From Michigan

Mr. Petri. Thank you, Mr. Kildee.

Are there any other opening statements?

[No response.]

Mr. Petri. If not, we will proceed. Let me introduce the panel briefly. We are joined by Mr. Joe Christie, the Acting Director of the Office of Indian Education Programs for the Bureau of Indian Affairs, and as such is responsible for administering the Bureau's Elementary and Secondary Education Programs.

Also on the panel are Rose Potvin, who is the Coordinator of the Family and Child Education Program for the Hannahville Indian School in Wilson, Michigan. For almost 14 years, she has served Hannahville Indian Schools overseeing programs such as Title 1, FACE, and Special Education. She has also had significant classroom experience in her career.

Ms. Faye BlueEyes is the Director of facilities for the Shiprock Alternative Schools, Inc., in Shiprock, New Mexico. In her 13 years with the Shiprock Alternative Schools, she has held numerous positions. From her various posts, she has administered the breadth of programs dealing with everything from programs that assist at-risk students, to school construction, to housing issues for her students.

Mr. Don Sims is our next witness. He is Superintendent of Riverside Indian School in Anadarko, Oklahoma. Mr. Sims has had years of experience with the Bureau of Indian Affairs' off-reservation schools, as well as 24 solid years in education.

Mr. John Cheek represents the National Indian Education Association as its Executive Director. Since 1984, he has been involved with Indian Education Programs on every level. He served as an Indian Education Act Advisor to the Oklahoma City Schools, Program Director for Indian Education Programs with the Norman Public Schools, and also served as the Acting Director of the National Advisory Council on Indian Education.

Finally, Ms. Sandra Murie is the Superintendent of Rock Boy High and Elementary Schools in Box Elder, Montana. In her 25 years experience in educating Indian children, she has administered the Title 9 Programs, as well as acted as an advocate for the needs of Native American education.

Welcome to all of you. As I expect you have been told here, all statements will be made a part of the record of this hearing and will be reviewed by members and staff to assist us in working on legislation and revising programs.

We invite you to summarize your remarks in about 5 minutes. To guide you, you will see a green light, then a yellow light after about, well that means 1 minute is left. Then the red light is an indication that you should attempt to summarize and complete. We will start with Mr. Christie.

STATEMENT OF JOE CHRISTIE, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, WASHINGTON, D.C.

Mr. Christie. Thank you, Mr. Chairman.

I am pleased to be here today in support of your reauthorization of the Elementary and Secondary Act, ESEA, and to speak about the education programs benefiting Native American children. The BIA is only one of the two school systems that are operated by the Federal Government, the other being the Department of Defense.

Unlike our sister agency, the Department of Education, the BIA operates a school system, which means that we have to hire staff, fire staff, and live within a budget, like public school systems across the Nation. However, unlike public school districts, we do not have the luxury of operating within close geographical boundaries.

Unlike State Departments of Education that set State standards, we operate in more than one State. In fact, we are located in 23 States and 63 Reservations where each of the Tribal Governments are a sovereign Government.

In school year 1999-2000, we anticipate an enrollment of 51,378 students, which will increase about 2.5 percent per year. If you read the Parade in Sunday's paper, the Native American population is one of the fastest growing populations in the Nation.

H.R.1960, the Excellence of Children Act of 1999, would help support American Indian and Alaskan Native students to achieve higher academic standards, address the special needs of these students by supporting research-based culturally appropriate educational services, and promote high quality professional development.

It also promotes small class size accountability for students and schools, safe health, and disciplined learning environments. I might add that the DOI, the Department of Interior and the Department of Education, are jointly working on a Memorandum of Agreement presently to target research toward the Indian students in our Bureau-funded and operated schools, and in public schools with high Indian populations to try and develop a research-based best practices so that we then can take those research-based practices, based upon Indian children and apply that directly to our Indian children.

Most research to-date is not targeted or based upon Indian children. We support the Administration's commitments to standards-based reform through the school-wide Reform Programs. The BIA-funded schools have made progress under the Improving America's Schools Act.

Each of our schools have consolidated School Reform Plans. Each have school report cards available to their communities, Tribes and, by this time next year, to the general pubic via Internet. These report cards focus on student achievement and other

indicators, such as improved retention, reduction in dropout rates, staff development, and integration of technology into the curriculum, which is not an easy task, given the location of our schools.

For example, this past week, I visited Havasupie Elementary at the bottom of the Grand Canyon. We believe in accountability and support the focus of holding schools accountable for positive results, while giving them the critical flexibility needed to meet their goals.

I will be happy to answer any questions the Committee may have.

See Appendix C for the Written Statement of Joe Christie, Acting Director, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, D.C.

Mr. Petri. Thank you very much, Mr. Christie. Ms. Potvin?

STATEMENT OF ROSE POTVIN, COORDINATOR, FAMILY AND CHILD EDUCATION PROGRAM, HANNAHVILLE INDIAN SCHOOL, WILSON, MICHIGAN

Ms. Potvin. Boozhoo. My name is Rose Potvin. I work for the Hannahville Indian Community in Upper Michigan as the Family and Child Education, FACE, Program Coordinator. I have been asked to testify on the importance of the FACE Program. I am going to tell you our FACE story; how we build on strengths, giving parents and children opportunities to interact in a positive way. I will let the parents' own words tell you how FACE has impacted their lives.

FACE is a strength model. It builds on family strengths, rather than pointing out deficits. This is a factor in family involvement and helps develop a partnership with the school that continues when the children enter the Kindergarten-12 System.

Many of the parents in our program did not have a positive experience when they were in school. When they voluntarily enroll in FACE, they are inviting us into their homes. The parents are the first teachers. Our role is to strengthen and support them as their child's teachers.

The FACE team begins the family school partnership. Trust is earned. It does not just happen. We have just completed our 7th year in the FACE Program at Hannahville, with an average of 65 families each year receiving services.

An example of the flexibility of FACE is in our home base component. Hannahville has a child care facility in the school. Parents who are working are granted education release time to pickup their child from day care, go across the hall, and have a visit in the Parent Educator's Office, or they can leave work an hour early, pickup their child, and have the visit at home.

FACE has had a significant impact on early intervention. Our FACE Program works closely with Early On of Michigan. When a child is identified as being eligible for

Early On services, the family chooses a service coordinator. Because of the trust that has developed over time, FACE families will usually request their parent educator to also be their service coordinator.

The service coordinator helps the family coordinate all of the interventions they may be receiving to an individual family service plan, an IFSP. This identifies strengths and needs of the family in order to best meet the needs of the child. Last year, 14 FACE families had IFSP's.

When you consider the latest research on windows of opportunity, begin to realize the impact that early identification and intervention can have. The sooner a concern is identified and addressed, the better progress a child can make. I could give you research and statistics, but how do you measure a person's self-esteem or the effect that improved self-esteem has on future generations. A FACE parent gains confidence as a parent and as a person, due to the support and success they achieve.

The best testimony for FACE is in the following quotes from five of our families, and the essay attachments to the written testimony. ``I received my GED finally after 12 years of putting it off. I tried in the past, but having children and trying to raise a family, it seemed impossible to get old and go back to school.

I thought, wow, I could take the kids to school with me while they go to pre-school themselves. It was well-worth getting up in the morning with something to look forward to everyday. After completing my GED, I moved on to a Teacher Aid position at the school, which made me feel honored, and like my full life was worthwhile again. ''

``The classroom itself has taught me more than just high school academics. It has taught me about goals, plans, and child development."

``On the first day that the class began, I was very apprehensive about the whole thing. Well, once we got on the bus that first day, our lives changed."

``The home visits helped me learn about Fetal Alcohol Syndrome and the effects of it, what the physical signs are, and what I should lookout for."

``I have been in both home and center-based FACE. I cannot say enough about it. When my daughter, who is now 12, was asked about her favorite memory of school, she said it was at naptime when my mom would come into the classroom and read me a story."

There are currently only 22 FACE sites in over 180 Indian schools. FACE is unique in providing services from pre-natal through third grade. Waiting until a child is in kindergarten to start working on parental involvement may be too late.

In closing, I would like to relate one more parent quote. This is from a father who was involved in FACE from the time his 8-year-old son was a baby. This dad is a recovering alcoholic. We have shared his ups and downs. He was hired as a counselor last fall at a halfway house.

I saw him last month at our pow-wow and asked him how his job was going, and he replied, ``that job is the best thing that ever happened to me. No, I have to change

that. FACE was the best thing that ever happened to me."

See Appendix D for the Written Statement of Rose Potvin, Coordinator, Family and Child Education Program, Hannahville Indian School, Wilson, Michigan

Mr. Petri. Thank you. Ms. BlueEyes.

STATEMENT OF FAY BLUEEYES, DIRECTOR OF FACILITIES, SHIPROCK ALTERNATIVE SCHOOLS, INC., SHIPROCK, NEW MEXICO

Ms. BlueEyes. Chairman and members of the Subcommittee, thank you for inviting me here today to share my thoughts about Tribal operation of schools funded by the Bureau of Indian Affairs. I am a member of the Navajo Nation, and have lived and worked on the Navajo Reservation all my life.

Our Tribe is the largest Federally recognized Tribe in the United States in population; approximately 200,000 enrolled members. BIA-funded schools are a vital part of the education system on the Navajo Reservation. Of the 185 schools in this system, 65 of them are located on Navajo.

The entire BIA School System serves about 52,000 Indian children. Shiprock Alternative Schools, Inc. We refer to it as SASI, is operated by an elected Navajo School Board and with a BIA grant issued under the Tribally Controlled Schools Act.

Our school serves 450 students from K through 12. SASI is one of the few schools that operates ever program for which BIA funding is available. SASI's mission is to instill in our students' pride in being a Native American, and a drive to be an integral and contributing member of the Navajo Nation and society at large.

Our curriculum is designed to empower each student to be a life-long learner, and to develop the skills necessary to compete in the job market of the 21st Century. A brief description of our school programs is attached to my written testimony. However, we do provide an Alternative High School Program, an Elementary Program, Special Education Program for Severely Handicapped Students, bilingual education, Residential Program.

We provide transportation and facilities. We are also in the design phase of a new school construction. We also have the Family and Child Education FACE Program. We also have the oversight and management of 74 apartments. I have a few comments about the BIA School System.

I would like to point out that schools that are funded by the Bureau are totally Federally funded. We are not part of any public school system. Our per pupil bases receive nearly 30 percent less for education programs than the national average in public schools.

Our transportation budget, too, falls about one-third short of the per mile funding versus public schools. This makes it very difficult for us to run a quality education program. In the limited time available, I would like to highlight some areas that I feel are

important.

One is the best aspects of the BIA School System is that it gives Indian Tribes the opportunity to have direct hands- on involvement in the education of our children. The BIA education law passed 20 years ago, Public Law 95-561 enacted in 1978, has never had a statement of Congressional findings or purposes to expressly spell out Congress' hopes, objectives, and responsibility for this Federal school system. We need you to acknowledge in Federal law that the United States is responsible for this school system, and express its commitment to work directly with Tribes in a Government-to-Government relationship.

With respect to funding issues, our schools are under- funded in several critical areas: basic education funding, administrative costs, facilities operations, and maintenance. Our basic education funding, Indian School Equalization Formula, or ISEF, was intended to serve two purposes.

One was to identify program funding needs. The other was to provide equal distribution of those funds. The equal distribution has been achieved, but a system to identify overall funding needs has not been accomplished. The draft legislation proposes a method for identifying needs, which would be tied to the National average per pupil expenditure, calculated by the National Center for Education Statistics.

We urge you to seriously consider adopting this proposal, and ask that you carefully monitor the annual BIA education budget, and alert the Appropriations Committee if the budget request does not meet the reflected identified level of need. The Administrative Cost Grants that our schools receive are far less than what we need.

What is really distressing is that every year, more schools enter the BIA system to be Tribally-controlled. Yet, the money remains the same. If there is already 50 schools in this system, then we are all expected to operate these same schools with the same amount of money with more schools.

I really feel this is a setup for schools to fail. In the past 2 years, the Appropriations Committee has placed a cap on the amount of those funds. This year, we expect to only get maybe 80 percent of what the statutory formula requires. Another area of concern is the development of a Tribal Department of Education.

We feel it is vital that this Committee support the development of Tribal Departments of Education, especially on Navajo where 65 of these BIA-funded schools are located. The Tribal Department of Education could play a critical role in training new Tribal school board members to take over direct operations, help them recruit highly qualified administrative staff, develop good financial management systems, and provide ongoing monitoring. This role must be performed by the Tribes involved.

Finally, I would like to address schools and dorm facilities. Most of the BIA schools and dormitories are old, out of space, out-dated, and over-crowded. Shiprock is a prime example. I could sit here and tell you all the horror stories related to our facilities, but because of the time limit and also my red light has turned on, I will immediately jump to the fact that for Shiprock Alternative, we have been very fortunate.

We are added to the new school construction priority list, but it has taken us 7 years to get funding. We hope Congress in the fiscal year 2000 will provide us the first phase funding. Mr. Chairman, we do not even receive enough money for our routine operations and maintenance of these buildings.

For years, we have advocated for additional facilities' support, but have not been able to get the amount that was needed. When the Federal Government spends millions of dollars to replace new schools, it does not make sense there is not enough money for operations and maintenance.

In the long run, those new schools are going to also deteriorate. Our BIA School System has labored under this under-funding of facility needs for decades. We need your help to turn things around. There is no guidance in the law as to the amount the authorizing committees because should be appropriated annually for new school construction and major repair projects.

I would estimate that over half of the schools in our systems need to be replaced. Funding has only been provided for one to three new school starts per year. Please establish the authorizing statute annual amount for new school construction and facilities improvement and repairs that would reflect what is needed and work with the Appropriations Committee to appropriate at these levels.

Thank you again for giving me the opportunity to testify about the BIA School System that is so vital to the Navajo Nation and to other Tribes throughout the Country. I will be happy to answer any questions.

See Appendix E for the Written Statement of Fay BlueEyes, Director of Facilities, Shiprock Alternative Schools, Inc., Shiprock, New Mexico

Mr. Petri. Mr. Sims.

STATEMENT OF DON SIMS, SUPERINTENDENT, RIVERSIDE INDIAN SCHOOL, ANADARKO, OKLAHOMA

Mr. Sims. Thank you for the opportunity to be here today to share with you my experiences in the Bureau of Indian Affairs Education Programs. They are 100 percent off- Reservation board school experiences. At this moment, I am in Oklahoma. I just completed my second year there.

Our belief is every one of our students can learn. They can not only learn, they can excel. One of the fundamental issues we have to address in our schools is the fact is they do not learn at the same rate. They do not learn in the same styles.

So, we are very fortunate to have the freedom in our school to adjust how we teach, how we educate. We propose that students do not have to finish high school in 4 years. They could finish it in 3 if they want to, or 5, or 5-1/2 if they need to. It is much better to have a really truly educated person at the age of 19, or 20, or even 21 leave our school, than to send someone out after 4 years of earning or receiving grades of Ds and

Cs.

What our goal is, is to have a mastery level system for every student who leaves our school will have at least an 80 percent mastery of every subject. We believe that sends the signal that you really do know something at that point and you do not have to worry about being second class when you go to the next level, whatever that is. I have seen too many students graduate with less than a 2.0, which is a C, but they graduate. That sends a subtle message that okay, it is okay to be inferior. Go out there and do whatever you can do now. We have the freedom to change that and so we are.

In January we started a program at our school that said we do not accept flunkey. We do not accept Fs. We have weekly grade reports. We have 425 students ranging from 5th grade to 12th grade. This coming year we are going to be 6th grade to 12th. The fact is we said it is not okay to flunk.

We did not just say that. We gave them the tools to help to support to make sure that they got past that flunking stage. We created what we call an opportunity dorm. We are a residential school. So, all of them live on campus. If you fell into the flunking range, we moved them into the opportunity dorm and for one week, they had the opportunity to work themselves out of the dorm.

While they were in the dorm, they had no TV, no radios, no walkman, no diversions. If we had a school trip or anything, they could not go. Some people said that was really harsh. Maybe, but what is really harsh is to send those kids out thinking they know something when they do not.

So, our first week we did that. We had 93 kids. The second week, we had 57. The third week we had 12. Our students are not lacking for intelligence. They are lacking for the sequential education that most people get. They are lacking the support from families that says, yes, it is important to learn.

I live right on campus. So, I live this day-in, day- out, nighttime, weekends. As I mentioned, all of my BIA experience has been in boarding schools. So, what we are doing is raising the standard each semester this coming year. In 2 years, we will be at the 80 percent mastery. We will probably go beyond that because they are capable.

My yellow light already. I knew this would be a challenge; 5 minutes. Mr. Cheek's report references the Executive Order 13096 on Indian Education from President Clinton, improving reading and mathematics, increasing high school completion in post-secondary attendance rates, reduce the influence of any long-standing factors that impede educational performance, such as poverty and substance abuse, creating a strong, safe, and drug free school environments, improving science and education, and expanding the use of educational technology.

We can do all of those, but we cannot do it with all of the students in the same amount of time. We have to adjust what we do to meet the needs of our students, and focus on those needs, and not get caught up in everything else that goes on with the students. We have to give them support in every area. That is what we do.

I would invite you to check with us next year to see what happened, because this year, in 1998 we graduated 24 students with the advent of an alternative program school

within a school on our campus this year to increase our graduation to 73 students.

So, we are pretty confident about what we are going to do because we are confident in the students. Anything you can do to help us, we appreciate. I would be happy to answer any questions you might have. Again, thank you for this opportunity.

See Appendix F for the Written Statement of Don Sims, Superintendent, Riverside Indian School, Anadarko, Oklahoma

Mr. Petri. Thank you. Mr. Cheek.

STATEMENT OF JOHN CHEEK, EXECUTIVE DIRECTOR, NATIONAL INDIAN EDUCATION ASSOCIATION, ALEXANDRIA, VA

Mr. Cheek. Thank you, Mr. Chairman.

On behalf of the National Indian Education Association and its 3,000 members, we thank you for allowing us the opportunity to present testimony today. We also would like to thank the staff of the Committee for helping us be here today. So, we appreciate that; especially you, Mr. Kildee. You have been a true advocate for Indian education. I do not really know what we would do without you. So, thank you.

My comments today are solely on behalf of the Title 9 Program, the Office Indian Education. My base of experience is traditionally in that program. I have been in Indian education for about 20 years. About 18 of those years have been with programs directly funded under that authority.

A part of the problem in that we allude to in our testimony today is the ESEA reauthorization recommendations being put forward by the Administration. On the one hand, we have the Individual Education Executive Order, which espouses all of these great activities and needs that have to be met, as Mr. Sims mentioned.

The problem is that many of the authorizations in the current Indian Education Act are being eliminated in the Administration's proposal. The position of the National Indian Education Association and Indian educators, in general, is that this is the wrong attitude or position to take.

Key programs that are going to be eliminated, should this occur, would include Indian Fellowships, Adult Education Programs, Gifted and Talented Programs, and probably the most key portion of the Act is an authorization for Travel Education Departments.

The Bureau of Indian Affairs and the Indian Tribes, in general, are moving to more control over their economic and educational situations. Without some of these programs in place, it is going to be very difficult for them to assume responsibilities kind of as being your own Tribal Government administering your own programs.

We feel that these programs should remain, and the new authorization should be funded accordingly, and allow Indian Country to work on these programs and make their

own futures. The history of the Individual Education Act has been a remarkable one. It has been around since 1972. It has funded thousands of students.

I am a product of one of the programs. I was able to receive a master's degree in one of their programs. I went back and worked with the Cheyenne and Arapaho Tribes in Oklahoma and ran an Adult Education Program. Both of those programs are earmarked for elimination. In my work with Adult Education Programs with the Tribe, I would work with about four or five different locations, and work with Indian adults. For the most part, these were high school dropouts who may have dropped out even as early as middle school or junior high.

For the most part, many of them were reluctant to take programs offered by the State Department of Education because that was a part of the reason they left in the first place. They were very uncomfortable in working in a traditionally non-Indian situation.

So, if you take the programs to the Tribes, to their location, they will come. They will participate in those programs. That is really what it is going to take to elevate the status of Indian education with Indian Tribes up from the bottom rung of the ladder, which is where they have been over the past hundreds of years.

If you want Indian people to compete in this Country in a level equal with other groups or non-Indians, then you need to give them the avenue to do that. This program can provide that, if it is fully funded. The Office of Indian Education educates approximately 90 percent of the Indians in public school. BIA educates approximately 10 percent.

The programs that are earmarked to be funded, I guess, in the 2000 budget is only for Public School Programs.

They educate or serve approximately 450,000 students, including BIA students. These other additional programs, discretionary-type programs, if they were funded, could help the portion of the population that have dropped out or are seeking higher education degrees.

In closing, I would like to say that the rest of our comments would be on the record. I think you could read that and see NIA's position on BIA funding in their schools, and the rest of the different programs that, if they could be funded, could really help Indian Country.

I would like to mention that were it not for the work of Robert Kennedy back in 1967-1968, the Indian Education Act would probably not even be here today. I probably would not even be here today. So, I would encourage you to take the right step, and move forward with Indian education. Keep the program viable where it helps all parts of the Indian community, not just the K through 12 students.

Thank you.

See Appendix F for the Written Statement of John Cheek, Executive Director, National Indian Education Association

Mr. Petri. Thank you. Ms. Murie.

STATEMENT OF SANDRA MURIE, SUPERINTENDENT, ROCKY BOY HIGH'ELEMENTARY SCHOOLS, BOX ELDER, MONTANA

Ms. Murie. Good afternoon, members of the Committee.

I want to thank you for allowing me to testify today on the reauthorization of Title 9, the Indian Education Title of the Elementary and Secondary Education Act. I am from the Rocky Boy Public Schools. I represent the Rocky Boy Public Schools. The Rocky Boy Public Schools are located on the Rocky Boy Indian Reservation in North Central, Montana.

The Rocky Boy Public Schools Has a student body of almost 100 percent Native American. The Rocky Boy Reservation has a taxable which are_the boundaries of the Reservation are the boundaries of our school district. It has a taxable valuation of about $54,000.

Therefore, 47 percent of the general operation budget of Rocky Boy Public Schools is funded by Federal Impact Aid. So, we do appreciate continued support and any increases in the reauthorization of the Federal Impact Aid Program.

My written testimony also outlines some concerns and recommendations we have with the Administration's proposed language in the reauthorization of Title 9. So, I will not go into those. Instead, I want to talk a little bit about Title 9 Programs at Rocky Boy Schools.

To improve academic schools and enrich the lives of students at Rocky Boy Public Schools, several innovative programs and services are being provided through our Title 9 Program. This is in collaboration with many other programs. At $90,000 a year, with over 600 kids eligible for this program, and we are serving well-over 700, you are averaging about $140 a student.

You cannot do much with that, but when you collaborate with other programs, you can do a lot. I will discuss four of the programs we use to implement the objectives of Title 9. Tutoring is provided to assist students in completing assigned work and receiving credit. Credit can be earned in math and science when students participate in 2-week, what we call Aim Right Programs.

Aim Right is named after a local educator at Rocky Boy who has been deceased. Title 9 funds provide specific projects to help our students increase their math and science skills, utilizing technology and cooperative learning approaches.

I have also outlined for you in my written testimony, some of the progress we have made in our student test scores and in our attendance. I would like you to look at those. This program has motivated many students to participate in Local, State, and National Science Fairs and probably bring home awards.

Another very innovative program is the Summer School on Wheels. Like the Math and Science Program, it has a component to help improve the academic skills of

students. This program allows students to participate in 5- to 10-day field trips and be exposed to learning experiences beyond the classroom.

As an example, 12 students just returned from a 10-day outdoor trip at the Archeological Digs in Drumheller Alberta, Canada. They had a chance to go up into the glaciers and the Rocky Mountains and do some work there. Students camp out when they are on this trip. They are assigned duties and chores, thus learning other life skills as well.

This allows students an enriching academic life, and a life-long experience, and also the ability to earn science credit. We also provide, with Title 9, enrichment activities, activities that you cannot find in our isolated community: swimming, bowling, roller skating, attending baseball games.

We also provide cultural activities. We have found through student surveys that cultural activities are a deterrent to the use and abuse of harmful substances, and in building self-esteem in our students. Another section of my testimony outlines some of the concerns we have with the competitive part of funds under Title 9.

There are some discretionary funds set aside. I believe in 1999, there was $3.26 million appropriated. This was for professional development and what we call PPD, Planning, Piloting, and Demonstration Projects, and Adult Education. We are asking four increases: in reinstatement of Adult Education, for increases in professional development and the PPDs, and reinstatement of Adult Education.

If it is the intent of this Congress is to create a self-sufficient population, independent of Government support through Welfare Reform, then the funds needed to educate that population needs to be invested in this manner today, when we talk about investing in adult education.

The other thing I want to bring to your attention are the concerns we have with additional school facilities that are needed in our district. We also have a neighboring district who has the same type of dire needs. This is found throughout Indian Country.

I believe in the latest surveys, school construction has a need of about $100 billion. Schools in Indian Country need about $2 billion. We, at Rocky Boy, have a schematics plan with about a need of $12 million. I appreciate the language the Administration is proposing be included in the Title 8 Impact Aid supporting construction needs on Indian lands.

Likewise, we support the construction bills introduced by Senators Baucus and Hagel, and Congressmen Hayworth and Pomeroy. These bills recognize the construction needs of school districts in Indian Country.

I am going to stop there. Thank you.

See Appendix G For The Written Statement Of Sandra Murie, Superintendent, Rocky Boy High Elementary Schools, Box Elder, Montana

Mr. Petri. Thank you. Mr. Kildee, do you have any questions?

Mr. Kildee. Thank you, Mr. Chairman. I appreciate the courtesy. Both Ms. BlueEyes and Murie stated that we should have a set of findings or purposes for, I think, Public Law 95-561 in your written or spoken testimony. I think that is a real good idea.

I was here as a Freshman when that bill was passed. Al Quay was the Ranking Republic Member and a very, very good friend of Indian education. I was working closely with Al Quay. Do you have any particular or specific idea of what we should have in our findings or purposes for 95-561?

I will start with you, Ms. BlueEyes and then go to you, Ms. Murie.

Ms. BlueEyes. Thank you. I would like to refer to the Navajo Nation draft that was attached to my testimony, particularly Section 1122(C). Excuse me. That is not (C). It is under (A). There are several things listed here. One is that I would like to just read a couple of them.

That it is the mission of the United States to provide quality education opportunities from early childhood through life, in accordance with the Tribe's needs for cultural and economic well-being, and the desires of each student and family. The other one is to reaffirm the trust responsibility of the Federal Government to the Indian Tribes to provide quality educational services to Indian students, whether directly or through contract, or grant taking into account the educational, spiritual, mental, physical, and cultural aspects of each student, and their families, and Tribes.

We definitely believe that these are some of the findings that we would like to see and, I guess, follow it.

Mr. Kildee. Ms. Murie, do you wish to add to that?

Ms. Murie. I am not familiar with Public Law 95-561, as a public school administrator.

Mr. Kildee. If you could get your ideas to Alex or to George, our staff people, we would like to, myself, look those over and see where we can incorporate some purposes. I think 95-561 was a landmark bill. Mr. Quay worked very hard on that, whenever he toured schools. Also, if you would give us some suggestions on the building needs. When I first started visiting BIA schools, and this is not criticize the BIA because the trust responsibility resides with the entire U.S. Government, which includes the Congress who appropriates the funds.

I would visit the BIA schools. There were more direct BIA schools in those days, and contract schools came into being more later. I used to get calls from BIA principals asking me to come out and visit their sch[illegible]r at least tell the BIA I was coming to visit their school because they were there a week ahead of time repairing things.

That is not a criticism of BIA, because we did not give you the monies. It is Congress' fault really. I remember I went to one school and I saw all new shower heads on the showers. I could tell they were new. So, finally I asked one of the students, when did they put those new shower heads up there? He said, oh, a couple of days ago.

I said, what kind of shower head did you have before? He said none, just the plain pipe coming out. So, I am really concerned. We have a moral obligation. A Federal Judge, and many of you have heard me say this many times, but it bears repeating. A Federal Judge in my Congressional District, several years ago, ordered a jail closed down.

The jail was built in 1930, closed down, because it was not fit for human habitation. That jail was in a lot better condition than some Indian schools I had visited. That is immoral. That is really immoral; absolutely immoral. They imploded the jail. They blew it up.

That jail was in pretty good shape, compared to some of the Indian schools I have been in. So, I am going to yield now and come back for a second round of questions, because I have used most of my time talking.

On us is an awesome moral responsibility. On you is an awesome moral responsibility to remind us of what we should be doing. You are right on the front line. You are really the foot soldiers. You people who are so important. We are the ones who set the policy here. You have to prod us to provide us the information so we can set right policy and have the courage to do that.

We have a real responsibility to the Federal Government for K-12 education, particularly for the Indians of this Country. I will not rest until we really_I hope to stay in this Congress as long as God and the voters are willing. I have been here 23 years now.

I visited Pine Ridge about 21 years ago. Robert Kennedy went into Pine Ridge in 1967, was it? I visited about 21 years ago. It was really abject poverty. I visited it again 3 years ago with Patrick Kennedy and it was abject poverty. You have great leadership out there doing wonderful things, but they need resources.

Then I visited Pine Ridge again about 2 weeks ago with the President of the United States. Pine Ridge is just an example of the Federal Government's failure to live up to its commitment; to live up to its own Constitution and the treaties.

Thank you, Mr. Chairman, for indulging me.

Mr. Petri. Thank you. Mr. DeMint.

Mr. DeMint. Thank you, Mr. Chairman.

Mr. Sims, I would like to direct a question to you. As you know, often times with Federal funds comes a pretty tight prescription on the programs that need to be followed through with those funds. I was intrigued with the broad flexibility that you are taking in creating your own programs, even to the point with the tough love with the students.

You have set some very specific goals related to mastery of subjects. You are taking a lot of license in how to accomplish that. Is that something that you think is a good idea or should we prescribe it more tightly from the Federal level as to how you are going to accomplish those goals?

Mr. Sims. A qualifier before I answer. Have you ever been to an off-reservation boarding school?

Mr. DeMint. No.

Mr. Sims. Are you an educator?

Mr. DeMint. No.

Mr. Sims. Okay. I will educate you real quick.

The answer is yes, we need the flexibility because our students come from a wide range. We have students from 63 Tribes, from 21 States. They come with an understanding of who they are. They come from urban areas who have never been on a reservation before.

They do not know their history, the traditions, culture. They have an opportunity to learn that within the boarding school. Our School Reform Act that Mr. Christie referenced gives us the ability to have freedoms at our schools, all the way across the board, all 185 school, to create the best arena we can to educate the students we get.

So, when we turn in a school reform plan, it references most of these plans. As I have said, some of the particular things we did started in January. So, our school reform next year that we turn in will reference those programs.

So, I believe, yes, that of course we need regulations, but why would we settle for Ds when we can have, in a sense, Bs and even As?

Mr. DeMint. I agree. Do you not think it is unfair to treat students differently in the same setting, based on their needs?

Mr. Sims. Absolutely not. They will be treated differently when they step outside those doors. They are going to have to perform. They are going to have to know stuff, lots of stuff. Kids now days have to know so much stuff, I am glad I am not a kid. So, yes, I think we have to have that freedom within the schools. Of course, we need standards. We need legislation to set standards for us and all, but I do not think we should settle for low standards.

Mr. DeMint. Thank you.

Mr. Sims. May I just close a bit? With our Accelerated Education Program that we started this year, we set 80 percent mastery level for those kids. Granted, those kids are older and they wanted to do well so they could go on with their lives. Eighty percent mastery, roughly a B-minus.

Well, we did not have one student below a 3.5 in that program. So, they can do it. We just have to give them the opportunity to do that. Thank you for your question.

Mr. DeMint. Thank you. I yield back, Mr. Chairman.

Mr. Petri. Ms. McCarthy.

Ms. McCarthy. Thank you, Mr. Chairman.

I will say that this is probably my first hearing dealing with these issues. So, I am ignorant on a lot of the issues. I know that we are dealing with education on the Floor right now. Even just going over the budgets and everything, it does not make sense to me.

If we are increasing monies for education in the public school systems, why are we not doing it for all of you? Our whole goal has been to raise all young people so they could have a good education and get good work. So, I guess I have to go to Mr. Christie. Is it because you have not asked for enough money, or we are not giving you enough money, or what? Bottom line is what it comes down to. I do not understand these figures at all. There are cuts all the way across.

Mr. Christie. The funding for Indian education needs to be looked at over a complete continuum, not in a short segmented way. We know from research base that if we get more kids into FACE, that those FACE kids come into kindergarten at a higher readiness level, with a greater parental involvement, not only in the kindergarten, but that involvement carries right on through the rest of the elementary and secondary grades.

Therefore, we anticipate higher achievement levels. We are not eligible for Even Start Funding. So, the only programs where we can deal with Indians zero to 5 is in FACE. We have 146 schools that have kindergartens, but we are only in 22 sites. If we really want to increase education, we need to start at the very lowest level.

When we get into the elementary and secondary levels, as it was stated here before, when you compare our per pupil cost to the per pupil cost in public schools or even more, try to compare it to DOD schools. When you compare the two Federal systems, DOD to BIA, it looks like we are on the wrong side of the tracks.

Now, Indians start out behind. They have a higher dropout rate. They have an atrocious dropout rate at eighth grade. They have the highest birth rate of any population in the United States, but we have had a continuing cap, moratorium, on any new school starts. So, you ask me are we over-funded, or are we adequately funded, I would say no.

Ms. McCarthy. No. I actually said from everything I see here, you are way under-funded.

Mr. Christie. Yes, ma'am. I would say we are definitely not over-funded and we are not adequately funded. We need to target those funds all across the board, including our Tribally Controlled Community Colleges, which are not a concern of this legislation.

However, I recall last week when I was at Haveasoupi, I went there and I looked at their elementary school. Talked with the Tribal leaders and with the school people. They told me that they do when they graduate from the eighth grade, they are actually reading on about the fourth or fifth grade level.

They did not send them out of the Canyon. They go to the public schools and they go to off-reservation boarding schools, and most of them drop out because they

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happen to be away from home, out of the Canyon. So, when they drop out, where do they go? They come right back into Haveasoupi. There is no high school there.

There is no alternative school there. The two biggest programs at Haveasoupi right now are law enforcement and education. There are only enough quarters there to either have law enforcement or to have education. So, the Tribe is going to have to make a choice.

Do I have law enforcement for all of those kids who are coming back, dropping out, getting into bootlegging and other social problems, or do I concentrate on education and have enough for teachers to live there. Their rollover rate is atrocious.

You want a qualified teacher in the classroom, yes, but you would like to have that same teacher there for 5, or 10, or 15 years to really become a member of that community and to know, and understand, and be a role model. When you have only got quarters for half of your teachers, they have got to leave. It should not be either or. We should have a bigger pie.

Ms. McCarthy. I agree. From what Mr. Kildee said, and I will certainly go to him to help you in any way I can, but it seems to me that we are being totally unfair towards how we are dealing with the public schools and how we are dealing with the Indians.

So, I think that this is something we have got to work with. I mean, our job is no matter who we are, we are supposed to make sure all of our children of this Nation have the education that they need. I will certainly work with you, Mr. Kildee, on that.

Thank you, Mr. Chairman.

Mr. Petri. Thank you. Mr. Tancredo.

Mr. Tancredo. Thank you, Mr. Chairman.

I apologize to the members of the panel there for having been late and not having been able to hear most of the testimony. I have tried to read through as much as possible. The question I have for you is going to deal with macrocosm, I think, more than any of the details of Indian education.

It stems not from anything I have read here, really, but from my own experience as the Regional Director for the U.S. Department of Education's Office in Denver for Region 8. I have, by the way, visited both boarding schools and schools on the reservation, BIA-run schools.

I had quite an opportunity to do that at Pine Ridge too. I had a very good relationship with the principal there, and had him tell me, almost seemed like weekly anyway, through communications that he would make with my office of the problems he faced in trying to actually accomplish the goal that he had established for himself and for the kids in his charge.

I guess I do not know how else to characterize what he told me, except to say that essentially the system, he felt, had certainly failed him and the students in it. That he felt, as opposed to the comments that have been made here, that the issue was certainly not

financial.

As a matter of fact, the per pupil operating expenditures there were significantly higher than in any of the public schools around there. I do not know about DOD. I do not know what the difference is there, but I can tell you in terms of just the public school per pupil operating expenditures, the BIA-run schools were much richer in that regard.

He continued to suggest, anyway, that the problem was structural, really, that the BIA does not know how to run schools. I am sure that, that is a perception; that I do not know how widely it is shared.

I have to ask you, considering the difficulty we have had over the past, gosh, 20 years at least, in trying to actually improve educational attainment levels on the reservations and with Native Americans, and the failures that we have met there, with all of the attempts at various types of structural changes that I know have been advanced through the U.S. Department of Education and through the Congress, what does anyone on the panel, what do you think really and truly we can do?

I recognize, and I was very happy to see the comments about Rocky Boy; an increase in attainment level there. I have to tell you, however, that we have seen these little spurts before and they have not proven to be long lasting. I am just worried because I really feel that this is a disaster.

Indian education, generally, has been a disaster. I do not know why and I do not know how to stop it. So, again, I realize that there were probably a lot of comments made during your opening address that may have allayed my fears to some extent. I apologize if I have to ask you to repeat any of those. Just look at the big picture for a moment and tell me what you think, anyone there, tell me what you think we can do.

Mr. Christie. I was struck with Mr. Kildee's discussion about Mr. Quay. In 1977-1978, I was a trainee up here and I worked with Yvonne Franklin on his staff when 95-561 was being put together. When you talk about structural, prior to 95-561 we had a major structural problem with education in the Bureau of Indian Affairs, in that the funding would come down through the Bureau chain, and because education was such a high priority, or a high visibility issue, chunks of that money got pulled down and got pulled off for other things.

In 1978, prior to 95-561, there was an extraordinary difference in the amount of funding that went down. Off- reservation boarding schools, like Inner Mountain which is now closed, was drawing almost $20,000 per student. On- reservation day schools were getting less than $700 per student. Public Law 95-561 realigned the structure. It allowed us to fund schools on an equal basis, by student, and to take those funds and drive them past the bureaucracy, right down to the school. The ESEA, during that period of time, the Elementary and Secondary School Act during that time, however was built in a fragmented way.

So, when you got to Chapter 1, or what used to be Title 1 back in those days, you could only spend it on Title 1. You could only spend it on certain things that the Department of Education was trying to get improvement in. As a result, what you had was not an integrated school system, even with the new money, but you had a segmented

little school system that said, I work for Title 1, or I work for Title 4, or I work for this.

So, there was no cross-development and unity feeling at those schools. However, because we operate a school, we operate them and we try to do the best, whether the facilities are good, or whether the facilities are bad, or whether the flexibility is there is not there.

The best thing that has come down the pike is this Consolidated School Reform Plan. It allows us to bring every pot of money in, drop it down there at the school level, let them decide within certain standards what the best way to education those kids are. They know them. We do not. We are sitting up here in Washington, D.C. and we do not know what is best out there. I have got 185 schools, each one of those people have to make that decision. They are making that decision now. We set the standards. They help set the standards. They are adhering to State standards.

We are in 23 different States. So, we have 23 different State standards that the schools within those states are adhering to. That is the way to run an education system. Now, once you have the program, and you have the "integratedness," and you have the staff development, and you have the high standards, then all that is left is to fund them adequately and put them in safe environments, so that they then can achieve and expect them to achieve.

I think that is the direction we are moving in. Do we have along way to go? Yes, we do. We have got years, and years, and years, and years of background things, not only with the community, but with the staff themselves, to overcome. We are moving in that direction.

So, I look at this as a great opportunity. I am really excited about the next 5 years. We are in the process of ending our first 5-year plan. We are in the process now of getting ready for the next round of consolidated school plans. All you have to do is look at the Internet a year from now and see where our schools are at.

The next best thing that has happened to Indian education is the 10297 that allows the Tribes and local school boards to take over those schools. If we are not doing a good job as the Bureau of Indian Affairs, they can take it over. They can do a good job. There are some things that we need to change about that because the child needs an adequate education, whether run by us or whether by the Tribe.

So, we need to have a way of monitoring and oversight, making sure that, that education reform is occurring, but we are moving in the right direction. Let us do not change horses like we have in Indian policy for the last 150 years, where every 5, 10, 15, or 20 years we change policies because we get impatient as Americans. Let us stay with this. Let us let the local school do it. Let us fund them adequately.

Mr. Tancredo. Thank you. I do not know, Mr. Chairman, if we have time.

Mr. Petri. We will have another round. I will give Ms. Woolsey her opportunity.

Ms. Woolsey. Thank you, Mr. Chairman.

Mr. Christi, my question and your response just now would be, if we block grant education and bring it down, give the money to the Governors, why do you think those Governors are going to invest in reservation schools rather than public schools, and continue to under-invest in reservation schools and force Native Americans to send their children to schools that they would otherwise not choose?

My fear is that what this is all about, and hearing the funding question that Congresswoman McCarthy asked, and the example that Congressman Kildee gave, my fear is that the Federal Government_now, if we block grant, the Governors very well could be working to try to do away with Indian schools, and BIA, and reservation schools.

So, you could respond to that. I would like any one of you all prepared to respond to that question. That really was not what I came here to ask you. I think it needs to be asked.

Mr. Christie. In my discussion in answering the last question, it was not aimed at block granting Indian education funds out to the Governors or the Governors or the States. This is a Federal school system. The funding would come down through the Federal Government, through the Bureau of Indian Affairs, and then be allocated and distributed based upon the weighted student union, the unit, ISEF, the Indian Student Equalization Formula.

That the funds then would be dropped down through that allocation system. If the Tribes take over the schools under a 100-297, then it would be allocated over to them. It has been short of a disaster. Well, let me correct that. It has been a disaster, when we have expected public schools in states to take over the education of Indian kids. They are in rural settings.

There are schools that we operate on Navajo where there is not a public school district within 50 miles or more. There are others there where school districts come right in, and they are almost side-by-side with us in some cases.

Their basic problem has always been is how do you have basically non-Indians in the tax base wanting to, and continuing to on a voluntary basis then fund Indian students? When you do that, you take out of the mix the participation of the parent, because they are reluctant to come into a public school setting.

Ms. Woolsey. I am not suggesting they go to public school, believe me.

Mr. Christie. I understand.

Ms. Woolsey. What I am trying to do is prevent that and have that be the choice. I would think that if the Governors, and I think that is what we are heading for. So, I would like somebody else to respond to that. I really was not suggesting we send Native American children to public schools, if their parents did not want that.

Mr. Cheek. First, there is a Government-to-Government relationship between Indian Tribes and the Federal Government. I think if you send the money down to the State level, they are going to be reluctant to give it to another Government, or essentially a

State where a reservation is located.

In regards to the block granting situation, in relation to Title 9 of the Department of Education, those funds go directly to the public school, to the LEA, from the Department of Education. In effect, they are already block granted or ed-flexed to the local education agency.

Our preferred method of giving out the money to Indian projects and public schools would be to stay that same approach. About side-tracking it through the State Department, in our estimation, is a better approach.

In regards to Indian education in general, regarding the big picture he alluded to, there has never been a consistent long-term approach to educating American Indians. I think probably the closest thing to it was the termination era, when they tried to eliminate all Indian Tribes in this Country.

Indian education really, programs earmarked for American Indians have really only been around for the last 30, or 40, or 50 years at the most. They have been not funded adequately enough or consistently enough over the long term to really make a great deal of improvement into the status of education for American Indians.

Until you have an approach that is consistent over the long-term, that looks at every facet of American Indian existence from pre-school all the way up through adulthood, you are going to have these same situations with low academic levels. In regards to I believe somebody mentioned whose responsibility is it for educating American Indians? We all have responsibilities. If I could give my annual tax bill to somebody else to pay, I would do that. Indian education is the responsibility of the Federal Government. We will advocate on behalf of that as long as it takes. Thank you.

Mr. Petri. I guess I am entitled to a question or two, too, and then we will go to the second round. It is interesting to go through the history of all this, but I think probably more relevant and important to us is moving forward, and trying to do it in a way that avoids this shifting from one voice to another, stopping and starting, building on what has been working, and also trying to give you more tools and the Tribes more tools so that they have the ability to correct problems and to accelerate improvement.

In that connection, are there any recommendations you would like to make to us? Tribes, as I understand, are able now, if they are dissatisfied with the BIA-run program to take it over themselves. Are they able to contract out if they wish to, like an Edison Project, the way some local school districts do?

Do they do charter schools? Do they need some special programs for boarding-type schools, or some recognition of different conditions that require different cost reimbursement, just in the nature of some sensitivity or some process so that those adjustments can be made? Is that all being handled.

Could you address that, Mr. Christie?

Mr. Christie. Under the current statute, 561 and 10297, there are some technical amendments that do need to be made to those so that the accountability factors can be tightened down on. However, one of the things that we really need to look at very

closely, and especially crops up in the SEA legislation is we need to recognize Tribal standards.

Many tribes have started to develop their own educational standards. We need to recognize those standards and we need to incorporate those standards as a part of the standards definition within ESEA.

Once a Tribe has taken one of the Bureau-operated schools, when then, what we call a Bureau-funded school, they have the authority to do within that school those things that they need to do in order to increase the educational achievement and control. Most of those Tribes have also incorporated cultural traditional learning within that.

One of the things that ESEA does not adequately do is to address the cultural issues. It addresses the language issues, but it needs to address the cultural issues; remembering that we have 530-some-odd different Tribes, with each having their own cultural issues, and their own cultural backgrounds. I would be glad to review, or do a more in- depth review of 561 and 10297 and submit that to you for the record for recommendations, sir.

Mr. Petri. Thank you very much. We would appreciate any guidance or help. Mr. Kildee.

Mr. Kildee. Thank you, Mr. Chairman.

The BIA schools and the contract schools get their money through the BIA, plus they get ESEA funds. Then the public schools will get their Title 9 Funds and their Johnson- O'Malley Funds. But all in all, the appropriations we make for Indian Programs, whether they are BIA schools, contract schools, or public schools with Indian students, have always been inadequate no matter what streams we have. They have always been inadequate.

I appreciate your clear explanation of that. Let me ask you this, assuming that non-Indian schools around you or generally in the Country, assuming that non-Indian schools receive 100 cents on the dollar, what percentage or cents on the dollar do you feel Indian schools are getting in relation to public schools in general?

Mr. Christie. I can guess.

Mr. Kildee. I know it will be less. Can you give me an educated guess as to the relationship between using a hundred as what generally public schools would be getting and say what BIA and contract schools might get? You may want to talk on the other funds for public schools. Could you give us a figure, Mr. Christie? I know it is a "guesstimate."

Mr. Christie. The numbers that we have been looking at generally indicate somewhere around 50 to 60 percent of what a public school district gets.

Mr. Kildee. So, 50 to 60.

Mr. Christie. Fifty to 60 percent. Then you have to look, in addition to that, you have to isolate the instructional dollars, the staff development dollars, and the actual operation of

the school. Then you have to compare the O&M cost. What happens many times is that they take our O&M costs and lump it in with our instructional costs, and then make their comparisons.

You really need to strip that out. On the O&M side, we are currently funded at about 69 cents on the dollar of our own funding formula. There is no public schools that I am aware of that run schools where the wiring is so inadequate that you cannot even hook up air conditioners without blowing all of the circuit breakers like we have out at Navajo.

We had an investigation out there by a TV show. They showed all of these air conditioners. Then we were out in the middle of Navajo and it is very hot. It is a desert, but we could not hook them up because the wiring was actually put in pre-WPA. So, there are certain ways that you have to isolate this. There are certain issues that you need to address, especially the O&M.

Mr. Kildee. So, 60 percent, but even part of that is used for non-instructional purposes then; right?

Mr. Christie. The 50 to 60 percent is trying to isolate the instructional cost and compare that to the instructional cost over in the public school category.

Mr. Kildee. Thank you. In Michigan, do you have any idea where your schools would stand?

Ms. Potvin. I am not in the finances.

Mr. Kildee. Okay; all right, honest answer. Ms. BlueEyes.

Ms. BlueEyes. I would have to agree with Mr. Christie. We are one of those schools whose electrical used to shut down. We would have a system and we would say, okay, you guys on that end turn off your air conditioners. We will turn on ours. Otherwise, everything would go down.

Since our schools are residential programs that were converted to classrooms, what we have done is there are two bedrooms. All we did was knock down the wall in the middle so it became a larger office space or a classroom. So, it became really bad where the wires started to melt.

Our buildings could have easily caught on fire. However, because we were persistent with the BIA, we practically told them we have no choice. We are going to have to upgrade these electrical amperage. We had 100 amps for over 16,000 square feet.

We are supposed to be running computers, calculators, typewriters, and air conditioners. We had swamp coolers and it could not handle it. So, like I said, we have a lot of stories related to facilities, which I could tell you about, but I would like to invite the rest of the Committee to come out and actually see the schools like Mr. Kildee has done.

You are going to see first-hand what we are talking about. If our kids are sitting here in the wintertime, we are trying to teach them something to learn like reading,

science, math, whatever, and the boiler has gone down, they are sitting there with their coats on.

Mr. Kildee. The time has run out and I am trying to get a percentage figure here. I know it is a difficult question, but if you could just give me a ballpark figure or guesstimate.

Mr. Sims. We are directly funded from the Office of Indian Education Programs. So, whatever Mr. Christie says, that reflects us.

Mr. Kildee. You would concur though with the 50 to 60 percent?

Mr. Sims. Yes.

Mr. Kildee. Mr. Cheek.

Mr. Cheek. In our testimony, we did include the WSU for BIA schools is approximately $3,200. The National per pupil average for public school students is around $7,300 per student. When you factor in all of the overhead, facilities, maintenance, et cetera, my guesstimate would be about 25 percent for students.

Mr. Kildee. Ms. Murie.

Ms. Murie. One thing I want to point out, Mr. Kildee, you are probably well aware that Federal Impact Aid is not forward funded. When we operate our general operations with Federal Impact Aid, we go by the seat of our pants, you might as well say, unless we are good managers and we have built up a reserve. Many of us have, and many States have kind of taken a look at that with a leery eye before they provide State aid.

We do have a constant struggle when we talk about the needs versus how much is going directly to the student of the dollar. We do operate 40-year-old buildings who do not have electrical capacity for technology, nor for cooling. As an example, I have a 40-year-old building. We are presently planning to build a cooling system into the boiler system.

It is going to cost me well over $100,000. Where does that come from? Somebody has to make a decision how much of that instructional money goes back into creating this cool environment for students to learn.

Mr. Kildee. Thank you.

Mr. Petri. I understand Mr. Cheek has to leave at around 3:00 p.m.

Mr. Cheek. Yes. I apologize to the Committee. I am going out to Albuquerque for a National Indian School Board Association meeting.

Mr. Petri. If you have to leave, then we will understand.

Mr. Cheek. Thank you.

Mr. Petri. Mr. Tancredo.

Mr. Tancredo. Mr. Chairman, I am just going back to the principle that I talk to so often in trying to reconcile what he told me against what I have just been hearing about the costs and the expenditures. If I remember correctly, at the time the per pupil operating revenue in his school was approximately 3 times what it was the public school district that I lived in, in Colorado.

So, something is peculiar in this regard. I do not know if it has to do with the way in which the money is accounted for. The testimony has been provided here that perhaps the O&M account was added into what he considered to be his PPOR. I do not know, but I am certainly going to find out, I will tell you that.

I am interested in one of the things that Mr. Sims mentioned in his testimony about letting parents choose where their children go to school. The school is deficient in how they help students learn. Why should children have to attend? There are other options. How could we increase the options available to Native American students?

Mr. Sims. I have always been a proponent of our school requires an application. All of the off-reservation boarding schools require applications. That process requires signatures from people from the home reservations, and from the local line officers, from which the schools that they are attending to, they are requesting to attend.

There are statements made by certain line officers that all of the students within that particular area will go to a certain school. They will not go anywhere else. If you accept I am not going to sign off on them. So, therefore you do not get any of the money.

I think that is a real detriment because you do not have to perform and you will still get your students, and the students will still leave, either before or with an inadequate education, in my opinion.

So, I have always thought that it should be each parent's right, for many reasons. In our school, we have fourth generation students that are there. That is a part of it because grandfather I do not like there. I learned this part of it. The student just comes there to learn that part of it.

Mr. Tancredo. Thank you. Thank you, Mr. Sims. I yield the time.

Mr. Petri. All right. Ms. McCarthy.

Ms. McCarthy. I will let everybody go because they seem to have to catch planes, but I do want to work on this issue.

Thank you.

Mr. Petri. Thank you. Thank you all very much. It has been a very informative session. We will continue working with you and look forward to your later submissions.

If members have additional questions for Mr. Christie or others, I suspect they will be willing to submit responses in writing.

Mr. Petri. With that, this hearing is adjourned.

[Whereupon, at 3:00 p.m., the hearing was adjourned.]

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Appendix A The Written Statement Of Vice-Chairman Thomas E. Petri, Member Of Congress From Wisconsin.

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SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

OPENING STATEMENT

THE HONORABLE THOMAS E. PETRI (R-WI)
SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES

EXAMINING EDUCATION PROGRAMS BENEFITING NATIVE AMERICAN CHILDREN
JULY 20, 1999

"Good afternoon. I would like to welcome you to the next in our series of hearings in preparation for the reauthorization of the Elementary and Secondary Education Act. Today we will hear testimony on programs that benefit Native American children.

"I want to take a moment to thank the Ranking Minority Member, Mr. Kildee, for being with us today. As the co-chairman of the Congressional Native American Caucus, Mr. Kildee has been one of the leading proponents of education programs serving Native American youth.

"More importantly, he has been a wealth of knowledge on how these programs work, and I look forward to working with him as we move ahead. There are also a number of Republican Members, including our committee chairman, Mr. Goodling, who have supported these programs in the past and have expressed a strong interest in improving the way they work.

"In my Congressional District in Wisconsin, 5 school districts receive funds under Title IX, Part A of the ESEA, for a total of $93,375 to supplement the education of Native American students, so I know the value of this program.

"All of us -- Republicans and Democrats alike -- want to ensure that our children receive the best education possible. But, As Mr. Kildee often reminds me, we have a special obligation, in the form of a treaty between the United States government and the sovereign tribal nation, to meet the educational needs of Native American children.

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"For this reason, I am particularly concerned about the high dropout rate for Native American students, which is currently well above the national average. As the subcommittee begins to craft legislation, my goal will be to ensure that Native American students have the same access to quality education programs that all of our citizens deserve, and that our educators have the tools they need to improve the education outcomes for Native American students.

"The first program we will look at today is the Bureau of Indian Affairs (BIA) elementary and secondary education program. While this program is not specifically authorized under the Elementary and Secondary Education Act, we have traditionally used reauthorization of the Act as a vehicle for making improvements to this program as well.

"The BIA program is the largest program for the education of Native American students. Under this program, students attend schools operated by the BIA or the tribal governments under grant or contract arrangements with the Bureau. Funding for school operations is based on the Indian student equalization formula, and students are assigned a relative weight, based on the cost associated with their education.

"The second program we will look at today is operated by the Department of Education under Title IX, Part A, of ESEA. This program provides funds to improve and enrich the quality of education received by Native American students. Most of these funds are distributed on a formula basis based on the number of Indian children in the LEA or at the BIA funded school.

"Despite the still too-high dropout rate among Native Americans, I am encouraged that tribal governments are increasingly taking control of schools through grant or contract arrangements. In the near term, I hope this will translate into better academic achievements among our Native American students. In addition, I understand that strides are being made in Native American family literacy programs, and I look forward to learning more about successes in this area.

"We have a large panel today, and a lot of ground to cover, so I'll end my remarks here and thank our witnesses for their appearance before the Subcommittee. As we work to update and improve these programs, I will do my best to improve the quality of the service provided, and increase flexibility for participating schools and tribes. I look forward to hearing your ideas on how we can do this, and I yield briefly to Mr. Kildee for his opening statement."

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Appendix B the Written Statement of Ranking Member Dale E. Kildee Member of Congress from Michigan.

Statement of
The Honorable Dale E. Kildee
Ranking Member, Early Childhood, Youth and Families Subcommittee
Hearing on Native American Education Programs
July 20, 1999

GOOD AFTERNOON, I AM VERY PLEASED TO JOIN CHAIRMAN CASTLE AT THIS HEARING ON INDIAN EDUCATION PROGRAMS. I KNOW THAT BOTH OF US ARE LOOKING FORWARD TO HEARING TODAY'S TESTIMONY ON THESE VITAL FEDERAL INVESTMENTS.

THE PROGRAMS OPERATED BOTH BY THE BUREAU OF INDIAN AFFAIRS AND THE U.S. DEPARTMENT OF EDUCATION ARE EXTREMELY IMPORTANT TO ENSURING A HIGH QUALITY EDUCATION FOR INDIAN CHILDREN AND MEETING THE FEDERAL CONSTITUTIONAL RESPONSIBILITY TOWARD NATIVE AMERICANS. WHETHER IT BE FUNDING PROVIDED THROUGH TITLE IX OF THE ELEMENTARY AND SECONDARY EDUCATION ACT, OR TO BUREAU OPERATED OR FUNDED SCHOOLS, THE GOAL IS SINGULAR -

TO PROVIDE INDIAN CHILDREN WITH THE OPPORTUNITIES, RESOURCES AND FACILITIES THAT ARE PROVIDED TO NON-INDIAN CHILDREN IN THIS COUNTRY. MOREOVER, THESE PROGRAMS BEGIN TO ADDRESS THE FEDERAL RESPONSIBILITY, AS LISTED IN THE CONSTITUTION, TOWARD PROVIDING FOR THE EDUCATION OF INDIAN CHILDREN.

I BELIEVE IT IS VITALLY IMPORTANT THAT AS WE LOOK AT REAUTHORIZATION AND CHANGES IN ESEA AND BIA PROGRAMS, WE GIVE GREAT WEIGHT TO THE NEEDS OF INDIAN CHILDREN AND AREAS WHERE THE FEDERAL GOVERNMENT HAS BEEN LACKING IN ITS SUPPORT OF INDIAN EDUCATION. TOO OFTEN, INDIAN EDUCATION IS OVERLOOKED AND PUSHED ASIDE IN THE SCRAMBLE TO REFORM THE LARGER EDUCATIONAL SYSTEMS IN THIS COUNTRY.

IT IS MY HOPE THAT WE TAKE THE LESSONS LEARNED AT TODAY'S HEARING AND APPLY IT TO OUR WORK THIS CONGRESS. ONLY AFTER WE HAVE HEARD FROM THE VOICES OF INDIAN COUNTRY CAN WE TRULY UNDERSTAND AND APPRECIATE THE TASK BEFORE US.

THANK YOU MR. CHAIRMAN.

Appendix C the Written Statement of Joe Christie, Acting Director, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, D.C.

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Testimony of Joe Christie
Acting Director
for the
Bureau of Indian Affairs
Office of Indian Education Programs
U.S. Department of the Interior
Before the Subcommittee on Early Childhood, Youth and Families
of the Committee on Education and the Workforce
United State House of Representatives
Hearing on
Examining Education Programs Benefitting Native American Children

July 20, 1999

Good afternoon, Mr. Chairman and members of the Subcommittee. I am pleased to be here today to support the reauthorization of the Elementary and Secondary Education Act (ESEA) and to speak about the education programs benefitting Native American children.

The BIA is one of two federal education systems and we educate approximately 11 percent of the American Indian children. Although the percentage may appear to be low, we provide education programs for the vast majority of Indian children living on or near reservations in remote rural locations. If you are not familiar with our school system let me just briefly talk about it. The Department of the Interior operates and funds 185 schools, which are located in 23 states and on 63 reservations. The majority of our schools are located in four states-North Dakota, South Dakota, New Mexico, and Arizona. The majority are small elementary schools predominantly situated in rural communities and on reservations. We also operate boarding schools and have approximately eleven thousand students residing in residential halls. We serve approximately 220 Indian tribes. We are proud of our system and believe it is improving because of the education leadership demonstrated by President Clinton and the Congress.

H.R. 1960, the Educational Excellence for All Children Act of 1999, would help support American Indian and Alaska Native students to achieve high academic standards; address the special needs of these students by supporting research-based, culturally appropriate educational services; promote high quality professional development activities for teachers by encouraging collaborations among tribal colleges and other institutions of higher education; and encourage local schools to incorporate culturally responsive teaching practices and learning strategies into their educational programs. H.R. 1960 would also promote small class sizes, emphasizes accountability for students and schools, support safe, healthy and disciplined learning environments, and increase funding for after-school and summer programs.

We believe H.R. 1960 will help all schools achieve at higher levels and do so, not through quick fixes, but through well thought out strategies that are grounded in sound education policy.

We support the Administration's continuing commitment to standards-based reform. Through the school-wide program and the national focus on high performance standards for all children, the BIA-

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funded schools have made progress under the Improving America Schools Act, and we urge this emphasis to continue. We believe that schools will improve if held to high standards, have a focus on student achievement, are accountable to their communities, and provide adequate and flexible resources to their teachers and principals.

Our schools, through implementation of school-wide programs, have been able to focus their schools' financial resources on student achievement and other indicators of educational progress, such as improved retention, reduction of dropout rates, focused staff development that supports the curriculum, safe and supportive environments, reduced class sizes, and integration of state-of-the-art technology into the curriculum. Our schools are making progress as evidenced by the School Report Cards which we maintain on each individual school. We believe in accountability and support the focus on holding schools accountable for positive results while giving them the flexibility needed to meet their goals.

This concludes my prepared statement. We look forward to working with the Committee on this legislation. I will be happy to answer any questions the Committee may have.

Appendix D the Written Statement of Rose Potvin, Coordinator, Family and Child Education Program, Hannahville Indian School, Wilson, Michigan

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Nah Tah Wahsh Public School Academy
Hannahville Indian School
N14911 Hannahville B-1 Road
Wilson, Michigan 49896
Phone: (906) 466-2952 Fax: (906) 466-2558

Boozhoo. My name is Rose Potvin. I work for the Hannahville Indian Community as the Family and Child Education (FACE) program coordinator. The Hannahville Indian Community is a federally recognized Indian tribe residing on the Potawatomi Reservation in the Upper Peninsula of Michigan. The tribe has an enrolled membership of 550 people, 550 of whom live on or near the reservation.

I have been asked to testify on the importance of the FACE program, focusing on the impact of FACE on participating families and how it has improved their literacy skills and quality of life. I am going to tell you our FACE story, how we build on strengths, giving parents and children opportunities to interact in a positive way, and let the parents tell you in their own words how FACE has improved their literacy skills and the quality of their lives.

FACE was developed in 1990 by the Office of Indian Education Programs as an integrated model for an early childhood/parental involvement program. It was designed to implement a family literacy program in two settings; home based and center based. In the home based setting services are provided by utilizing home visits, parent meetings, screenings and referrals, and adult education. In the center based setting services are

provided in four components: adult education, early childhood education, parent and child interactive time, and parent time.

The home based setting is usually a participant's home. A trained parent educator comes to the home on a weekly or bi-monthly basis to visit with a parent of a 0-3 year old child. During this visit, the parent educator addresses the developmental level of the child and provides learning experiences that support the child's development and give opportunities for the parent(s) and child to interact. Screening and referral are also an integral part of the process. In addition to the home visit, monthly group meetings are conducted for the parents. Adult education services may also be provided to the home based parent by the center based adult educator. Health, nutrition, and child development based on the latest neuroscience research are areas discussed at home visits.

The center based setting is composed of two classrooms in a school. One classroom is equipped to serve as an early childhood room for up to 20 children ages 3-5. The early childhood program is conducted by a teacher and co-teacher who are knowledgeable and sensitive to the culture of the community and engage the children in active learning based on the developmental level of the individual child. The second room serves as the adult education classroom for up to 15 adults. An adult education teacher assesses the educational needs of each adult and develops an individual course plan for addressing those needs. This room is also used for enhancing parenting skills. Parents are required to participate in parent time. Parent time becomes a support group for the parents. All areas of parenting are discussed, from how to handle temper tantrums and sibling rivalry, to

preparing a child for the transition to school and high school. During Parent and Child Together (PACT) time, the adults participate in learning activities with their child and practice what they have learned in parenting skills time.

FACE staff members meet weekly to coordinate their efforts to insure that comprehensive services are provided for families. Joint planning sessions help team members focus on a common vision for the program that includes support of families' language and culture. Services are extended through referrals to other school and community services.

The FACE program requires staffing and skills that are not always initially present in schools and communities. The training received by all FACE staff members is extensive and a key to the success of the program. By requiring all FACE staff and a school administrator to attend trainings, the integration of the services is strengthened and the program receives administrative support.

Schools with FACE programs are also required to implement active learning in grades K-3. The active learning curriculum includes developmentally appropriate materials, children's manipulation of materials, children's choice of activities, encouragement of children's use of language-both English and native languages- and appropriate support by the teacher so that the children's learning is active, reinforced, and extended. Adoption of the active learning curriculum is intended to facilitate the transition of FACE children into kindergarten, encourage the continued involvement of parents in their children's

education, and provide all K-3 children the opportunity to benefit from this constructivist approach.

FACE is a strengths model, it builds on families' strengths rather than pointing out deficits. This is a factor in family involvement and helps develop a partnership with the school that continues when the children enter the K-12 system. Educational experiences for Native Americans have been poor. They have the highest dropout rates for any minority group and the highest retention rates for any minority group. Many of the parents in our program did not have a positive experience when they were in school and did not feel good about being in the school. When they voluntarily enroll in FACE either prenatally or with an infant or toddler, they are inviting us into their homes, they are not coming into the school. The parents are the first teachers and our role is to strengthen and support them as their child's teachers. By being consistent and building rapport with the family, the FACE team begins the family/school partnership. Trust is earned, it doesn't just happen. Parents begin coming into the school for parent meetings or to stop in the office of their parent educator. They become comfortable in the school.

An example of building on parent's strengths is the following excerpt from one of our parent educator's monthly report:

> *She was a very hard parent to get involved in anything. Well, since I have been using the neuroscience curriculum with her, she has kept most of her visits and is keeping her appointments with other agencies also. During one of our visits she was reading to the baby and when she finished I commented that she was using "parentese" when she read. This girl had the biggest smile on her face! She said*

she didn't even realize she was doing it. To think that something so simple as reading to your baby could impact this parent so much!

We have just completed our 7th year in the FACE program at Hannahville. An average of 65 families each year receives services, the majority in the home based component. Every FACE site has the flexibility to meet the needs of the community. An example of this is in our home based component. Hannahville has a child care facility in the school. Parents who are working are granted education release time to pick up their child from day care, go across the hall, and have a home visit in the parent educator's office. If they prefer, they can leave work an hour early, pick up their child and meet the parent educator at home for the visit.

Since the opening of the day care, many of our home base parents have been also attending center base for high school completion. During PACT time they go into the day care and spend time with their child, or pick up their child and spend time in the parent educators' room, which has an area for parent child interaction.

Another area that FACE has had a significant impact on is early intervention. Screenings are done regularly on all children enrolled in FACE. The parents are involved in the screenings, which helps them to be more observant of their children. If a concern is noted, the child is referred for further evaluation. Our FACE program works closely with Early On of Michigan. When a child is identified as being eligible for Early On services, the family chooses a service coordinator. Because of the trust that has developed over time, FACE families will usually request their parent educator to also be their service

coordinator. The service coordinator helps the family coordinate all the interventions they may be receiving-home health care, speech, physical therapy, etc., through an Individual Family Service Plan (IFSP). This identifies strengths and needs of the family in order to best meet the needs of the child.

The Michigan Part C report identifying services in rural counties for 1997-98 shows an average of 2.73 Native American infants and toddlers receiving Early On services. At Hannahville, our FACE program had 14.

When you consider the latest neuroscience research on windows of opportunity, you begin to realize the impact that early identification and intervention can have. The sooner a concern is identified and addressed, the better progress a child can make. An example of this process is in this excerpt from one of our parent educator's monthly report.

> *I have made several speech referrals and one referral for a diagnostic exam for a little boy who is a severe head banger. The children I referred out for speech are now receiving speech therapy. Services are either in their homes with a speech therapist doing a home visit and then working with me to teach me how to enhance what she is working on with the child, or the child comes into our office and the speech therapist works with him here.*

I could give you research, statistics, cost effectiveness data, etc, but how do you measure a person's self-esteem or the effect that improved self-esteem has on future generations? A FACE parent gains confidence as a parent and as a person due to the support and success they achieve. I feel the best way to answer how FACE has impacted our families is to describe the center-base and to give you direct quotes from some of our families.

Families enrolled in the center-based component attend school three days a week with their child. The 3-5 year old child and a parent or other significant adult are picked up in the morning. After eating breakfast together at school, the parent brings the child to the preschool room and the parent goes to the adult education room. In the preschool room the children are involved in developmentally appropriate active learning activities. Adult education addresses the academic needs of the parent, whether it is high school completion, GED, refreshing basic skills, becoming computer literate, or support for a college class. At lunchtime the parents meet the children for lunch and then spend an hour in the preschool classroom to engage in child-directed interactions. During this time the teaching staff from both rooms are also interacting and modeling behavior. A circle time activity helps parents make the connection between what is being done at school and what they can do at home. While the children are napping, the adults are engaged in parent time-parent education to support and enhance parenting skills.

When asked why the parents enrolled in FACE, the most common response was not to further their education, but to set a good example for their child. Most parents felt that it would be much harder for them to expect their children to complete high school if they themselves hadn't.

The best testimony for the importance of FACE is from the families we have served:

- I received my GED finally after 12 years of putting it off. I tried in the past but having children and trying to raise a family it seemed impossible to get out and go back to school. I thought, wow, I could take the kids to school with me while they go to preschool themselves. It was well worth getting up in the morning with something to

look forward to everyday. After completing my GED I moved on to a teacher' aide position at the school which made me feel honored and like my whole life was worth while again.

- The classroom itself has taught me more than just high school academics. It has taught me about goals, plans, child development, and up to date information on childcare. I've become more aware of the importance of reading daily, as well as listening.
- On the first day that the class began, I was very apprehensive about the whole thing. The thought of having to go to school again, even though I would be there with my son all day, just sounded like so much work and I wasn't sure if I would be able to handle the "commitment". Well, once we got on the bus that first day our whole lives changed.
- The home visits helped me learn about Fetal Alcohol Syndrome and the effects of it, what the physical signs are, and what I should look out for. The parent educator made me aware of the progression of my child, it changed our relationship and made us close. It helped me with my foster children. It taught me to spend time with my children.
- When my child started preschool there were 4 other children in her class who had also had FACE home visits. The teacher said those 5 students already have a longer attention span than their classmates do.
- I've been in both home- and center-based FACE. I can't say enough about it. When my daughter, who is now 12, was asked about her favorite memory of school she said "It was at naptime when my mom would come into the classroom and read me a story". Once she fell asleep I would go back into my classroom. Without this program I would not have been able to finish school because I couldn't afford a sitter or day care. (This was 7 years ago and the child still tells that as her favorite memory of school.)

In addition to the parents' statements about FACE, measurable outcomes from the past year include:

- 19 obtained jobs
- 21 attended adult education classes
- 10 attended college classes
- 2 passed part of the GED tests
- 1 was promoted to assistant manager at her job; she has also held this job for over a year, which is a record for her!
- 1 obtained an Associate of Art degree

There are currently only 22 FACE sites in over 180 Indian schools. FACE is unique in providing services from prenatal through third grade. Waiting until children are in kindergarten to start working with families to become involved in their children's education is too late.

In closing I would like to relate one more parent quote. This is from a father who was involved in FACE from the time his 8-year-old son was a baby. This dad is a recovering alcoholic and we have shared his ups and downs. He was hired as a counselor last fall at a halfway house. I saw him last month at our pow-wow and asked him how his job was going. He replied, *"That job is the best thing that ever happened to me. No, I have to change that. FACE was the best thing that ever happened to me."*

Committee on Education and the Workforce

Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: Rose Potvin		
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the Committee).	Yes X	No
2. Please list any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1997.		
3. Will you be representing an entity other than a Government entity?	Yes	No
4. Other than yourself, please list what entity or entities you will be representing:		
5. Please list any offices or elected positions held or briefly describe your representational capacity with each of the entities you listed in response to question 4:		
6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1997, including the source and amount of each grant or contract:		
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing?	Yes	No

Signature: Rose Potvin Date: 7/16/99

Please attach this sheet to your written testimony.

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Rose E. Potvin
P.O. Box 12
Bark River, MI 49807-0012
(906) 466-2384
rpotvin@hvl.bia.edu

EDUCATION

Currently enrolled	Northern Michigan University Marquette, MI 49855 Program: Education Specialist in Administration & Supervision
9/70-12/96	Northern Michigan University 12/96 Education Administration Endorsement 12/90 Master of Arts in Education 8/90 K-12 Learning Disabilities Endorsement 8/82 Continuing Certificate 12/73 Bachelor of Science Degree in Elementary Education

EMPLOYMENT

1/86 – Present	Hannahville Indian School	
	Title 1 Coordinator	8 years
	FACE Coordinator	7 years
	Special Education Coordinator	3 years
	7th –12th Grade Resource Room Teacher	5 years
1977-1986	Substitute Teacher: Hannahville Indian School Bark River-Harris Public School Escanaba Area Public Schools Holy Name Central Grade School	
1974-1976	Holy Name Central Grade School 5th Grade Teacher (Left for birth of first child)	

POTAWATOMI

HANNAHVILLE
INDIAN COMMUNITY
N14911 HANNAHVILLE B1 Rd
WILSON, MICHIGAN 49896-9728
Community Center: (906) 466-2342

PEACE BROTHERHOOD UNITY NISHNAWBE

Accounting Office: (906) 466-9933
Fax No. (906) 466-2418

December 12, 1994

CHOICES, what has it done for my family and myself. First of all my name is Vivian Mary Philemon-Trudeau, I am from the Hannahville Indian Community, I have two children, a son, Parker Zeke, a daughter Betsy Lynn, and a husband Julian. We live on Casino lane in Hannahville.

Our first encounter with the Choices Program was when Parker was only 3 or 4 months old; he was real tiny anyway. I had first heard about Choices when I saw a paper describing about the program and I was sorta impressed about the program, I signed up Parker right away, I had no idea how to take care of babies and the teacher would tell what to expect about a small baby and all the stuff they could do at a certain age, like when they would roll over and sit up on there own, or even how old they would be when they started to crawl, or what there first word would be even. As it turned out Parker's first word was SNACK, and then MOM was second.

And then when Betsy, was born the workers came to see her when she was just a week old, and she's been in the program ever since and now both Parker and Betsy are in the Center Base, which is like going to school, only for 3 days a week, which is fine, it kinda prepares them for the real days for when they go to school. I'm introducing them to the terms" school nites and to homework" which Parker gets; flash cards with pictures on it. He has a speech problem and the CHOICES group has helped us in getting him into speech classes and the teachers work one on one with him and gives him a lot of support, he knows he has a speech problem and it sorta helps us to know that he can get help from his own teachers and get extra help at home from what we have learned on how to help him.

CHOICES became the life saver for us last year when me and Julian were separated, The Choices Home Based teachers would show up and see us and then Parker finally got old enough to go to Center bas. and then Betsy went too, I started to go to the parent classes and started playing around with the computers and I learned how to use them. If we didn't go to Choices we would have been stuck at home, just the CHOICES Home Base teachers would have shown up at our house; my family didn't show

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up too much. They would even come to pick us up when the regular school bus wouldn't come and get us; I figured they really wanted us there, so we would always get ready everyday and wait for a ride and when no one would show up for us, we would get bundled up and I would pull the kids on the sled and go to school, it was in the morning too and it was cold out at times, but we didn't mind as long as we got to school. CHOICES really helped us get out of that ho-hum life style we had, sometimes I would just cry because we were so left alone and no one would come by and see us, The only real company I used to have was Parker and Betsy and sometimes I think they even felt lonely because no one would show up for days at our house, as if we lived out of the way and no one could find us.

Then we started to go to Choices center base every day and our lives just seem to pick up. The kids seem happier and I was getting my self-esteem back and I started thinking there is more to life than just staying at home and raising my children. But I wouldn't trade my whole life style in order to just to make myself happy; I still have my children to think about and their special needs. I'm happiest when I'm with my children and husband.

A new year for the kids. Yesterday was Parker's birthday; he turned 4, we had a big party for him and then he'll have another party today at school, thats the good thing about school, they get to have parties, go out on field trips, like for example we went to get a Christmas tree and the whole group went, mothers and all. Then, the teachers took the kids to McDonlds one day when they had there work all done, or they went to an art thing then they took the kids to McDonlds.

Betsy is doing great in her speech, she's passed up Parker, he still is going to go to his speech class starting on Wednesday and Thursday. She loves going to school, she especially likes her teacher Diane, "my Diane", she says.

I don't know if I mentioned that when I started in the center base that I started working on their computers and I kept working on it everytime I went to school. I learned on it quick, it was an Apple computer, (I was kinda afraid of the bigger computers like the IBM's). I applied for a job with the Hannahville Health Center, a secretarial position, and it needed someone with some computer skills and I applied for it and I got the job, so I'm grateful I did learn how to play around with their computer. If

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it wasn't for the CHOICES Center Base program, I wouldn't have my job and I probably would of gone back to work at the Bingo Hall, where there is no future in selling cards and calling off numbers. I made a good friend in the Choices program too, she's a alot of fun and she's the one who helped me alot with the computer last year.

Another good thing about the Choices program is that my husband Julian goes there during the day with the kids and while he's there he's working towards his high school diploma. He's also learning how to use the computer and he says he's going to buy one for our home next year. I thought that was the greatest thing he ever said to me, besides telling me he loves me and our life together. He encourages me to alot of stuff. But he's doing a great job at school too, he's been cramming for his home work for the past 2 days, and his essay is just about done too. At first when he started school with the kids I didn't think he would like it because there was just only women there, but now he was looking forward to going back and yapping with the girls again.

The kids were also looking forward to going back too, Betsy was just a little lazy this morning on getting up, Parker was also lazy too, but we got out of the house right at 8.

I guess this the end of my essay, all I want to add is that I think the CHOICES Program is great and more people should get involved like the young families here in Hannahville, there's alot of young mothers who need to know how to take care of there children and what to expect from them when they're at a growing age and to improve their own skills as well, learn a job skill and make a good life for themselves.

Respectfully submitted,

Vivian Trudeau, Hannahville Indian Community.

My name is Julian Trudeau. I am originally from the Serpent River First Nation in Ontario, Canada. I reside here in the Hannahville Indian Community with my wife, Vivian, Son, Parker, and daughter, Betsy. Hannahville has many programs within the community, by far, I believe the F.A.C.E. program is one of the best.

It was the late Winter of March 1991.

" What is that gal up to anyway?" That was my first thought when Peggy showed up at our tiny, but cozy trailer up in Wilson. Peggy was our home base teacher. My son Parker was only three months old and already in school. Peggy used to do this off the wall stuff, and play such weird games . Peggy used to have this great big beach ball of the world. She would have me roll Parker on that to strengthen his muscles. Parker's Grandma and Grandpa used to really get a kick out of his school teacher when home visits were at their house. One time she had a big pillow and she tried to get Parker to climb over it, he was only five months old. She really had me baffled about what she was doing. It was later I found out she was fine tuning his motor skills. We learned so many valuable things that year, especially on newborn motor skills. I was ever so glad the day I made a mobile out of stuffed animals for Parker. I just had to show Peggy when she came for her next home visit.

Who would have ever thought, now, 42 months later, I'm going to school with my son, Parker, and my daughter, Betsy. The Center base for the children offers a wide variety of learning tools from blocks to computers. The two teachers, Diane and Mary, do excellent work with the other children as well. They are always coming up with new and exciting ways to teach our children. During the week, usually on Thursdays, Bill comes over for sweet grass and tobbaco ceremonies. This also gives our children a good feeling to be part of. At first, the wee ones were shy, but soon felt very good about themselves and put down their tobbaco. My grandfather always stressed education to me and my three siblings. I never knew exactly how important his words were until I came to the F.A.C.E. program. I'm working on my High School diploma.

The classroom itself has taught me more than just high school academics. It has taught me about goals, plans, child development, and up to date information on child care. I've become more aware of the importance of reading daily, as well as listening. The teacher for Adult Ed. always makes sure that we have plenty of work to do. She is very pleasant to work with. We are not always steady work, work, work, but she lets us have a change in pace. Once in a while we watch a science video or have discussion on a new Native American movie just released. My son Parker, has a Phonological Disorder. There's an underlying sound system that children develop to organize and classify speech sound in to patterns - that's where Parker has trouble. But, in the last few months, I have seen a dramatic change for him. He is picking up words much more than before. His speech classes have helped him considerably. He knows he has a problem and he is getting the support he needs.

Over 40 months have passed since that first home visit with Peggy, and I never imagined what a good change the F.A.C.E. program would bring me and my family. I work in the evening and go to school with my children during the day. Their Ma works at the Tribal Center next door, which makes it great for us at PACT time. Betsy plays with her and Parker with me, but sometimes it's all three of them together. It's a beautiful sight to see, let me tell you. Their creativity is one of a kind. We are all much closer now than we ever were. Education and communication is what we're having now.

It wasn't always this way. There were times when I wasn't home and my wife would bundle up the kids and pull them on a sled to go to school at CHOICES if the bus never showed. Sometimes all she had to look forward to was the F.A.C.E. program. It really helped her get by those trying times.I know there were times when she would cry, possibly thinking, " Is this all there is?, being stuck at home all the time?" She made it to school every day she could. I see her devotion in the pictures that were taken over the years.

I never really knew and I wish more fathers in this community could know what a good feeling it is to go with your children to school. It's a feeling of togetherness to see the growth over the months. A feeling of happiness when the little ones walk over from their classroom, which is adjacent to ours, to get us for lunch. It makes me feel proud to say I'm going to school with my children.

When I hear the little padder of my children's feet to come wake me up

"Man, Dad, time for school"

Just to think of all the months I missed out, not being there for them, being other places I should not have been. It saddens me.

I graduate from High School this year. Betsy has two years left before she graduates from CHOICES. I sure would like to learn that computer... but who knows, maybe I'll be back at homebase.

I, Julian Trudeau, give permission to the BIA/OIEP to use my essay on the FACE program.

Julian Trudeau
1-13-95

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While sitting in class one afternoon, our teacher told us that we had a great opportunity to use some of our writing skills to write an essay about how CHOICES has changed or done something in our lives. Well, after many long thoughts this is what I was able write.

On the first day that the class began, I was very apprehensive about the whole thing. The thought of having to go to school again, even though I would be there with my son all day, just sounded like so much work and I wasn't sure if I would be able to handle the "commitment". Well, once we got on the bus that first day our whole lives changed.

There are so many options offered to us as far as learning and the learning processes. The teachers here are like none that I've ever had in any college; they are your friends and would do anything to help you and your family. They have helped me learn how to use my patience to deal with an unruly three year old, and sometimes that is a very hard thing to deal with.

One of the things that helped me the most is Parent Time. I now realize that my child is not the only one that won't eat all his dinner or sit still in the shopping cart, almost all kids do these things. During parent time other parents express how their child's behavior can be outrageous at times and we are all learning that it is a normal part of everyday life. We have to remember to deal with our children with patience and understanding, and use time-out instead of spanking or screaming at them.

Neikko, that's my three year old, has also gained a lot from CHOICES. He is an only child and never really had to share his things with anybody for any period of time. When he comes to class he has to realize that everything in the room is not his, that he must share everything; to me this is a very big step in our lives. He has made new friends and knows them by name and face, not from mom telling him who they are.

There are many, many other things that he has gained from this program, such as listening to and following directions (for the most part). When his teachers play the "on-your-mark-get-set-go" game he now knows to go get something and bring it back to the circle without running off to do other things.

His fine motor control skills have improved greatly through the use of puzzles and drawings in the art center. Surely he would have learned these types of things with me had we stayed at home, but here there are so many different kinds of learning materials that will make his mind work.

Here we are able to explore our minds at whatever level or speed that we are able to

work, and we are able to work on the things that we may need extra help on. Say one of my class mates or I need help in Math or English, there are very qualified instructors to come to our aid.

Even though I am a Native American, I was never brought up in the traditional ways, again, there are many people who are able to help me learn the traditions, and this is helping me learn and accept the values of the way things are done. We try to have ceremonies for children and this is another new thing that we have been introduced to. At first, not all the kids were exposed to the traditional ceremonies or how to participate but after watching spiritual leaders, seeing parents and peers laying tobacco and purifying with sweet grass, most can actively participate.

Although we spend our days very early and have a long ride to and from school, I would rather be with him than to have him in day care. I'm very happy with all the progress that my son and I have made so far this school year and I'm very anxious to see more improvement at the end of the year. Megwetch to all the people who have helped us

Geri & Neikko Turek
CHOICES
Hannahville

What the F.A.C.E program has done for me and my family.
Well it's helped me reach my educational goals as well as benefited myself,husband, and children.
I recieved my G.E.D a few years ago and also recieved some collage credits.
Thats something I finally accomplished after twelve years of putting it off.
I tried in the past but, having children and trying to raise a family it seemed impossible to get out and go back to school but, thanks to the C.H.O.I.C.E.S program I finally reached that goal of getting my education along with my son and daughter who were three and four years old at the time.
I thought wow I can take them to school with me while they go to preschool themselves.
It was well worth getting up in the morning with something to look forward to everyday and three days a week was not bad at all.
After completing my G.E.D I moved on to a teachers aide position at the Hannahville Indian School which made me feel honored and like my whole life was worth while again.
My children and I learned to get socially involved into the community after being away two years to Green Bay,WI.
I am currently still involved in the Home base program with my two year old son Austin the program has helped me to have parenting skills as well as watching my children grow and develope fine motor skills and also learned alot of new techniques over the past two years.
The atmosphere at the C.H.O.I.C.ES program has been great,I felt warm,and welcomed by the staff and the teachers are excellent.
I have benefited alot in the past few years. I'm still climbing the ladder to reach my future goals.

Thank You's very much,
Peggy De Leon

Hello, my name is Marlene Williams and my husbands name is Brian Williams Sr. Our family consists of five beautiful children, Nicholas- nine, Wesley- five, Cherice- five, Brian II- two, Brittany Ann - four months. Oh yes, and our much appreciated nanny Lisa Hanz.

Brian and I both work full-time as blackjack dealers at the casino which is run by our reservation. Because of our large family we've both got to hold down full time job which leaves little time to spend with our children, since our hours are usually 5:30 p.m. until 2:00 a.m. That's where our nanny comes in. She's very good with our children and has even seen one being born.

When Brian and I met we were both young. We often, like many young couples, found a sitter, and went out on the town. We were dating for three years before getting married. We were only married for three months when we ran into a major problem. We both found out we had a disease..... ALCOHOLISM. After extensive treatment and lots of counseling we came home to a life we had never had known before, SOBRIETY. Since we both came from alcoholic families this life was very new to us, and very rewarding. As I sit and write this I look around at everything we have and the love that has made our house a home, I silently say a prayer and thank the Great Spirit (Lord) for giving us the strength to walk the path of sobriety.

The reason I tell you this is because I want you to understand how my life was before and how it is now. I have been working with my children and the home base program for years. My son Wesley, was the first one of my children to enter this program. When Wesley was in the home base program, I was still an active alcoholic. I would not participate in the weekly activities that Diana had planned but she never gave up on us. When I had a hang-over and didn't want to participate she would encourage me to at least do some of the activities through out the week. When Wesley started Pre-school his teacher reported that she could see the difference in the children who were home base children compared to the children who were not. When I first started the program I use to think of it as a waste of time but when his teacher made that remark to me it made me realize that it was all worth the while.

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Since we have been sober lives have changed so much to the better. We've just gotten a job in our community transporting other people to treatment centers. It gives me such a rewarding feeling to know we are possibly helping others to have the kind of life we now live.

When we are not working, we try to do things with our children. This past summer we took our very first family vacation. Our children loved it as much as we did. We went to the zoo, stayed in a motel with a pool, and just acted like typical tourist. Last night we roasted hot dogs and marshmallows and just sat by the fire until dark. The home base program has really encouraged me to spend more quality time with my children. It has showed me how rewarding my children really are.

Currently my two year old son and my four month old daughter are both enrolled in the Choices program. Both my husband an I are active participants, and this I will say all my future children will also be enrolled as home-base children.

I could go on and on about my life and how much both my children and I have grown and learned, but my four month old is crying to be fed. My motherly duties are calling.

Megwetch

Marlene Williams

Marlene Williams

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Appendix E The Written Statement Of Fay BlueEyes, Director Of Facilities, Shiprock Alternative Schools, Inc., Shiprock, New Mexico.

Shiprock Alternative Schools, Inc.
Box 1799
Shiprock New Mexico
Dine Nation 87420
(505) 368-5144 & 368-4904
Fax (505) 368-5102

TESTIMONY OF
FAYE BLUEEYES, DIRECTOR OF FACILITIES
SHIPROCK ALTERNATIVE SCHOOLS, INC. (SASI)
NAVAJO NATION, SHIPROCK, NEW MEXICO

FOR THE

COMMITTEE ON EDUCATION AND THE WORKFORCE
EARLY CHILDHOOD, YOUTH AND FAMILIES SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

REGARDING THE
BUREAU OF INDIAN AFFAIRS-FUNDED SCHOOL SYSTEM

JULY 20, 1999

Chairman Castle and Members of the Subcommittee:

Thank you for inviting me here today to share my thoughts about tribal operation of schools funded by the Bureau of Indian Affairs.

To put my comments in context, let me tell you about myself, my Tribe and my school. First, I am a member of the Navajo Nation and have lived and worked on the Navajo Reservation all my life. Our tribe is the largest federally-recognized tribe in the United States in terms of population -- approximately 200,000 enrolled members -- and in terms of land base. Our reservation is located in the four corners region of Arizona, New Mexico and Utah, and covers about the same area as the state of West Virginia.

BIA-funded schools are a vital part of the education system on the Navajo Reservation. Of the 185 schools in the system, 65 -- more than one-third -- are at Navajo. The next highest number of schools -- eight -- serve the Mississippi Choctaw Reservation. Of the 329 tribes in the lower 48 states, only 76 have one or more BIA-funded schools, and of these, 62

tribes have only one BIA-funded school. The entire BIA system serves about 52,000 Indian children.

Shiprock Alternative Schools, Inc. ("SASI"). I am the Director of Facilities and Acting Director of Support Services for the Shiprock Alternative Schools, in Shiprock, New Mexico. In my 18 years with SASI, I have also served as Business Manager, Assistant Director and Executive Director, so I have been fortunate to experience all aspects of school operations and administration.

SASI is operated by an elected Navajo School Board with a BIA grant issued under the Tribally Controlled Schools Act. Ours is one of the larger BIA-funded schools, serving some 450 students in grades K-12. SASI is one of the few schools that operates every program for which BIA funding is available. In a small reservation community like ours, a school takes on more responsibilities than might be customary for schools in more populated areas where a wide variety of public and private support services are available for children and families.

SASI's mission is to instill in our students pride in being a Native American and the drive to be an integral and contributing member of the Navajo Nation and society at large; and to provide a curriculum designed to empower each student to be a life-long learner and to develop the skills necessary to compete in the job market of the 21st Century.

A brief description of our school programs follows:

• *"Alternative" High School Program*. Our high school magnet program is designed to serve "at-risk" teens who have previously dropped out of school or who have not succeeded in a regular curriculum. Because of this focus, we draw students from throughout the vast Navajo Reservation. We are very proud to say that this program has helped countless young people who would have otherwise "fallen through the cracks" obtain a high school education. Our class sizes are small (1:18 ratio) so that each student can receive more individualized attention. A key element of our curriculum includes real-world use of math, language arts, science and social studies in practical settings. The objective is to prepare our students for situations they will encounter in job settings, higher education and military service, and generally to become self-sufficient adults.

• *Elementary School Program*. Building on its experience with at-risk teens, SASI several years ago developed an elementary program with "prevention, intervention and acceleration" in mind. It is designed to help children in the primary grades avoid the problems experienced by our high schoolers. One of the innovative teaching methods we use is the "High/Scope" method built around learning centers in each classroom, giving students the opportunity to engage in learning activities that contribute to their cognitive, social and physical development. Our innovative methods have borne fruit. Over 77% of children in grades 4 through 6 are reading at or above grade level, and average daily attendance never dips below 97%. Our elementary program has been so successful and well-received that we always have more

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applicants than we can accommodate in our limited facilities. We require parents to commit to a high level of involvement in the elementary program.

• *Special Education Program*. Two years ago, the Navajo Nation Council asked SASI to take over the program for disabled students that was previously operated in the Shiprock community by another tribal organization. We agreed to take on this challenge. Our 20 disabled students have individual educational plans tailored to their needs. They attend classes with their elementary or high school peers to the extent possible and appropriate. Several of these students are wheelchair-bound and some need individual aides to assist with daily living activities.

• *Bi-lingual Education Program*. Many of our students come from traditional Navajo-speaking homes and have limited English proficiency. We must teach these students in both Navajo and English until they are able to study and learn in English.

• *Residential Program*. Because so many of our high school students come from distant regions of the Reservation, we must provide dormitory housing for them. In the just-completed school year, 82 high school students lived in on-campus dorms. We also house several special education students in the dorms. The residential program is staffed 24 hours per day, and includes supervision, all daily meals, recreation activities, and counseling/guidance services.

• *Transportation*. SASI runs an extensive student transportation program. For example, one of our bus routes covers 1,500 miles per week. We provide daily round-trip home-school bus transportation for our day students, and weekend/holiday transportation for the students who live in the SASI dorms.

• *Facilities*. This is one of the most complex programs we operate. Our education program is operated out of 50-year old converted dormitories that have been internally re-configured for classrooms. The buildings used for dormitories are also nearly 50 years old. Maintenance and repair problems are constant and demand a resourceful and dedicated staff.

• *New School Construction*. Seven years ago SASI applied for a replacement school, and was awarded a ranking on the BIA new school construction priority list. We are nearly completed with the design phase of this project (which the School Board is performing itself under its grant from the BIA), and we are hopeful that Congress will provide the first phase of construction funding in FY2000 so we can begin the construction phase this fall.

• *Family and Child Education (FACE)*. SASI is fortunate to have been selected as one of the schools to operate a FACE program which seeks to help parents and their children learn together and enhance their literacy skills. This is a vital program for Navajo families, many of whom use the Navajo language in the home and are learning English as a second language.

• *Employee housing*. Shiprock, like many reservation communities, must provide employee housing in order to recruit and retain teachers and administrators from outside of our small community. Unlike most towns and cities in this country, we do not have a private housing market for our staff, so most of them must live on-campus. SASI manages 74 staff apartments, all of which are 50 or more years old. They are in constant need of major repairs to maintain habitability.

Comments about the BIA School System

It is important to point out that the BIA schools are totally federally-funded; we are not part of any public school system. On a per-pupil basis, we receive nearly 30% less for education programs than the national average in public schools. Our transportation budget, too, falls about 1/3 short of the average per mile funding for public schools.

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You have asked for my thoughts on what works well in the BIA system and what needs to be fixed. Tribes and tribally operated schools have been working over the past year to develop legislative recommendations for the BIA education laws -- P.L. 95-561 (25 USC §2001, et seq.), and the Tribally Controlled Schools Act from P.L. 100-297 (25 USC §2501 et seq.). One of the former staffers from the Education and Labor Committee, Alan Lovesee, in consultation with personnel from tribal schools, drafted the initial discussion document; this draft has been considered and debated by various tribal and school officials over the past several months.

The Navajo Education Committee and Navajo schools, including SASI, hav the draft very careful study. The draft, with the Navajo Nation suggested revisions, is attach to my written statement. I strongly urge the Committee to support the draft, including the revisions recommended by the Navajo Nation.

In the limited time available, I will highlight what I feel are important issues on which this Committee should focus.

1. *The best aspect of the BIA school system is that it gives Indian tribes the opportunity to have direct, hands-on involvement in the education of their children*.

The Indian Self-Determination Act, passed in 1975, and the Tribally Controlled Schools Act, fashioned by this Committee in 1988, has made this possible. When the new school year starts next month, 75% of BIA-funded schools will be operated by tribal school boards.

Yet, Public Law 95-561, enacted in 1978, which set out for the first time directives to BIA on school operations, has never had a statement of congressional findings or purposes to expressly spell out Congress's hopes, objectives or responsibilities for this federal school system. I would ask the Committee to cure this omission. We need you to acknowledge in federal law that the United States is responsible for this school system, and express its commitment to working directly with tribes in a government-to-government relationship to make it an exemplary one.

2. *Funding issues*.

I recognize that funding decisions are made largely by the Appropriations Committees, but as the authorizing committee, Education and the Workforce can play a key role in assuring that the BIA school system receives the funding it needs to operate high quality programs. We urge you to exercise your authority in this regard on an on-going basis.

Our schools are underfunded in several critical areas: basic education funding, administrative costs and facilities operation and maintenance. Thus, we struggle on a daily basis to meet high quality education standards, to provide prudent administrative services, and to make our facilities -- many of which are in very poor condition -- capable of educating children in a decent environment conducive to learning.

• Indian School Equalization Formula. Title XI of P.L. 95-561 established an organized method for equitable distribution of funding within the BIA school system for the first time. The statutory directive led to creation of the Indian School Equalization Formula (ISEF). ISEF assigns weights (weighted student units -- WSU) to individual students for education programs (e.g., high school students are weighted more), and for other student characteristics (dorm needs, learning disabilities, bi-lingual needs, residential guidance, etc.) Each school annually receives the same base amount for each WSU.[1] The WSU base amount differs from year to year depending upon appropriations.

Before ISEF, the amount of funds provided to each school was apparently calculated haphazardly and depended heavily on the negotiating strengths of individual school administrators.

ISEF was intended to serve two purposes: to identify program funding needs for the whole system and to distribute appropriated funds equitably. Equitable distribution has been achieved, but a system to identify overall funding needs has not been accomplished.

The draft legislation proposes a method for identifying needs which would be tied to the national average per pupil expenditure (APPE) calculated by the National Center for

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[1] See 25 CFR Pt. 39 for weights assigned to each student characteristic.

Education Statistics. We urge you to seriously consider adopting this proposal, and ask that you carefully monitor annual BIA education budget submissions and alert the Appropriations Committee if the budget request does not reflect the identified level of need.

• Administrative Cost Grant Funds. Tribally-operated schools receive their overhead funds through the Administrative Cost Grant formula developed by this Committee and enacted in 1988. Only once in the past decade has BIA supplied funds to us in the amount required by that formula.

Furthermore, for the past two years, the Appropriations Committee, by legislating on the appropriations bill, has placed a cap on the amount of funds that can be supplied for AC Grants. That cap means we will get only about 84% of what the statutory formula requires in the upcoming school year. Of course, when we do not receive what we need to meet overhead, even with very frugal and prudent management, we must make up the shortfall with education funds. It also severely limits our flexibility at the local level to implement self-improvement ideas.

Please take steps to protect tribal operation of schools -- and this Committee's legislative jurisdiction -- and assure that the formula in the law is fully funded.

• Tribal Departments of Education. It is vital that this Committee support the development of tribal departments of education, both through the authorizing legislation and through direct efforts to provide sufficient funding to these entities. This is particularly important on the Navajo Reservation, where 65 of the BIA-funded schools are located. As you know, several schools at Navajo and on other reservations convert from BIA operation to tribal operation each year. A vibrant, well-funded tribal department of education can play a critical role in training new tribal school board members to take over direct operations, help them recruit highly qualified administrative staff, develop good financial management systems, and provide trouble-shooting assistance and on-going monitoring, particularly over the first few years of local operation. This role must be performed by the tribe involved, as the tribe is most heavily invested in the success of the exercise of its self-determination rights.

In addition, as a "veteran" of a tribally operated school, I know that a school board and its administrative staff must work continuously to assure that we comply with all federal standards, including audit standards, to be accountable to the federal and tribal governments and to the parents of our students, and to generally do things right. Achieving this goal requires diligent and knowledgeable board members and administrators; but it is not fully achieved overnight. Hands-on attention from a tribal department of education can go a long way in making local school operations successful.

3. *School, Dorm and Employee Housing Facilities*.

The condition of many -- perhaps most -- BIA schools and dorms is abysmal. These buildings are old, unsafe, outmoded and overcrowded. Frankly, it is a miracle our children are able to learn as well as they do in these buildings.

Shiprock is a prime example. Our elementary and high school programs are operated out of 50-year old converted dormitories which do not meet code requirement for fire safety, access or egress, or handicapped accessibility. Classroom space is so scarce that students are dispersed over the campus and some classes actually meet in areas formerly used as offices. Asbestos underlies all buildings, is behind radiators and occurs in some wall panels.

The pipes are so deteriorated that water is not suitable for drinking; we must ship in bottled water. The heating and cooling systems malfunction constantly, and sand pours into the classrooms through the plexiglass windows.

The buildings we use as dormitories are in similarly poor condition.

SASI is fortunate to have been added to the new school construction priority list, but it has taken seven years for us to be eligible for funding. We hope Congress will supply first phase funds in the FY2000 Interior Appropriations Act. Since we did not operate the residential program when we applied for new construction seven years ago, our dorms will not be replaced in this project. Just last week we submitted an application for new dormitory funding, along with some 40 other Navajo schools and countless schools from other reservations.

How much longer will Congress subject Indian children to unsafe and unhealthy schools? And how can we be expected to significantly improve the quality of our educational products and advance student achievement when our buildings fight us every step of the way?

Mr. Chairman, we do not even receive the funds we need for routine operation and maintenance of these structures. For years, we have advocated for additional facilities support, but have been held at an amount that does not even meet 2/3 of what is needed. Even that scarce funding does not all filter down to the school sites, because BIA takes money "off the top". We must use most of the allotment we get to pay utility bills. The utility companies do not cut our bills to meet the amount Congress provides; they want to be paid in full.

This leaves little funding for maintenance and minor repairs. When we cannot properly maintain buildings, not only does the learning environment suffer, the United States' investment in these federally-owned structures declines rapidly.

When the federal government spends millions of dollars to build a new school, it makes little sense to supply the school board with insufficient funds to properly maintain that new structure. Both the Indian students and the United States' investment suffer , as the new buildings deteriorate far more rapidly and will require replacement much sooner when they are not properly maintained. Our BIA school system has labored under this underfunding of facilities needs for decades. We desperately need your help to turn things around.

There are several provisions in the draft amendments that try to address our facilities needs which we hope you will seriously consider. We also hope you will come up with additional ideas to help solve these critical problems. Some of our ideas follow:

• Authority for local flexibility. Enact a provision that gives the local school the flexibility to use carryover operations funds for facilities improvement, expansion or construction. Some schools have been able to save some operations funds through prudent management. Others cannot spend all the operations funds they get because they just do not have space for more classrooms and teachers. The local school knows best what its most pressing needs are. Give us the authority to exercise that judgment.

• Authorization level for new construction and facilities improvement and repair. There is no guidance in the law as to the amount the authorizing committees believe should be appropriated annually for new construction and major repair projects. I would conservatively estimate that over half of the schools in our system need to be replaced, but funding has only been provided for one to three new starts per year.

The facilities repair "backlog" is estimated at nearly $800 million. This year's BIA budget requested only $40 million -- or 5% of what is needed.

Please establish in the authorizing statute annual amounts for new school construction and facilities improvement and repairs that rationally reflect what is needed and work with the Appropriations Committee to appropriate at these levels.

• Employee Housing. Schools in remote reservations areas must provide staff housing, as we have no private housing market. The need for employee housing is one of the most overlooked needs of our schools. *How can we recruit and hold on to the experienced, talented teachers we need to improve our students' performance if there is no decent place for them to live?* Please add a provision to the ESEA which addresses employee housing needs, and exercise the Committee's oversight authority on a continuing basis to assure that appropriate annual funding is provided for staff housing which is so vital to achieving BIA education program objectives.

Thank you again for giving me the opportunity to testify about the BIA school system that is so vital to the Navajo Nation and to other tribes throughout the country. I will be happy to answer any questions.

P.O. BOX 2721
Kirtland, NM 87417
505.368.2049 Phone Number
505.368.2053 Fax Number

FAYE BLUEEYES

Objective

To work with my Dine people and contribute to the education of our youth so they can become self sufficient. Fortunately, I have the opportunity to accomplish this with my current work.

Experience

7/98-Current Shiprock Alternative Schools, Inc. Shiprock, NM

Director of Facilities

- Directed completion of a $550,000 Modular Cafeteria Building
- Directing the Design Phase of SASI New School Construction with a budget of 1.4 million dollars
- Worked with the BIA Facilities FACCOM system
- Worked with the FI&R, MI&R, and Emergency funds
- Successfully managed 74 housing units
- Completed and submitted an application for Residential New School Replacement Facilities
- Responsible to manage the overall Facilities budget of 2.3 million

7/95-6/98 Shiprock Alternative Schools, Inc. Shiprock, NM

Executive Director

- Directed an Alternative High School for 180 "at risk" high school students
- Directed an Elementary Program for 218 college prep elementary students
- Negotiated and contracted 74 apartments through PL93-638
- At the request of the Navajo Nation, directed the management of a Residential Program for 85 students
- At the request of the Navajo Nation, directed the management of a Special Education Program for 26 severely handicapped students
- Negotiated for and acquired over 15,000 sq ft. of additional facilities
- Directed the completion of the Planning Phase for New School Construction

1/86-6/95 Shiprock Alternative Schools, Inc. Shiprock, NM

Assistant Director

- Developed and implemented a staff Salary Scale and Pension Plan
- Assisted and received priority ranking for SASI's New School Construction Proposal
- Worked as a consultant for two other Grant Schools to set up their financial system
- Directed the Food Service Program
- Directed the Transportation Program.

5/81-1/86 Shiprock Alternative Schools, Inc. Shiprock, NM

Business Manager

- Established and implemented a certified accounting system
- Assisted with the development of SASI's Policy and Procedures
- Overall Financial Management of School

Education

M.A., 7/98 Curriculum & Instruction, Doane College
B.A., 12/95 Education, Ft. Lewis College
A.A. 5/81 Business Administration, New Mexico State University

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Committee on Education and the Workforce

Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: FAYE BlueEyes		
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the Committee). Indian Tribal government entity	Yes ✓	No
2. Please list any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1997:		
3. Will you be representing an entity other than a Government entity?	Yes	No
4. Other than yourself, please list what entity or entities you will be representing.		
5. Please list any offices or elected positions held or briefly describe your representational capacity with each of the entities you listed in response to question 4:		
6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1997, including the source and amount of each grant or contract:		
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing?	Yes	No

Signature: Faye BlueEyes Date: 7/16/99

Please attach this sheet to your written testimony.

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ECJY-70-99

RESOLUTION OF THE
EDUCATION COMMITTEE OF THE
NAVAJO NATION COUNCIL

Approving and Recommending to the Intergovernmental Relations Committee of the Navajo Nation Council the Adoption of a Proposed Navajo Nation Position Regarding Amendments to Public Law 95-561 and Public Law 100-297

WHEREAS:

1. Pursuant to 2 N.N.C. 5481, the Education Committee is hereby established and continued as a standing committee of the Navajo Nation Council; and

2. Pursuant to 2 N.N.C. 5482, the Education Committee's general purpose is to oversee educational development on the Navajo Nation and to develop policies for a scholastically excellent, and culturally relevant education; and

3. The Navajo Nation has sixty-six (66) schools and dormitories which are affected by Public Law 95-561 and Public Law 100-297, approximately forty percent (40%) of the entire Bureau of Indian School system; and

4. The Navajo Nation has three (3) active school board associations serving the B.I.A.-funded schools which have been working together at the direction of the Education Committee of the Navajo Nation Council along with the Division of Diné Education to develop a comprehensive position on proposed legislation amending Public Law 95-561 and Public Law 100-297; and

5. The three (3) associations and the Division of Diné Education have held meetings relative to the proposed amendments to Public Law 95-561 and 100-297 and have recommended a draft of proposed amendments to Public Law 95-561 and 100-297 to the Education Committee of the Navajo Nation Council; and

6. The Education Committee of the Navajo Nation Council has reviewed the proposed draft amendments to Public Law 95-561 and Public Law 100-297 (attached hereto as Exhibit "A"), and find them to be in the best interests of Navajo students and families, as well as Navajo Nation sovereignty.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Education Committee of the Navajo Nation Council hereby approves the proposed amendments to Public Law 95-561 and Public Law 100-297 set forth in Exhibit "A" and recommends them for adoption by the Intergovernmental Relations Committee of the Navajo Nation Council.

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2. The Education Committee of the Navajo Nation Council further directs the Director of the Division of Diné Education to take all necessary steps to advocate with other tribes and school board organizations, as well as the appropriate committees of the Congress, in support of the position of the Navajo Nation, as set forth in Exhibit "A", with all the parties involved with the consideration of these amendments.

3. The three (3) school board associations (NASBA, ANCCSB, and NAGSA) are commended for their collaboration on this matter and are encouraged to advocate for the adoption on the proposed amendments to Public Law 95-561 and Public Law 100-297, as set forth in Exhibit "A".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Education Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed and 1 abstained, on this 6th day of July, 1999.

Andy R. Ayze, Chairperson
Education Committee
NAVAJO NATION COUNCIL

Motion: Wallace Charley
Second: Emerson Jackson, Sr.

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EXHIBIT A

NAVAJO NATION
RECOMMENDED CHANGES IN 3/22/99 DRAFT OF 95-561 REVISION

Section 1 - The section 107 of the Native American Languages Act of 1990

(25 U.S.C. 2906) is repealed. DRAFTED JUNE 5. 1999

Section 2 - Part B of Title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

Part B. - Schools Operated By the Bureau of Indian Affairs

Section 1121 - Findings and Policy

(a) The Congress makes the following findings:

1) That there are 185 schools supported by the Federal government under the trust responsibility providing educational services to 50000 Indian students

2) That 68 of the schools funded by the Federal government are operated by the Bureau of Indian Affairs and 117 are operated by tribes and communities;

3) That the schools that receive Federal financial assistance are part of the unique government to government relationship between the tribes and the Federal government.

4) That there is no resource more vital to the continuation of the Tribes and the country than the resource of these young people and that the Federal government has a responsibility, as their trustee, to protect their educational opportunities.

5) That all tribal and Bureau schools give structure and realization to the natural desire of Indian parents and communities to control their destinies and the destinies of their children.

6) That it is the mission of the United States to provide quality education opportunities from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being and the desires of each student and family.

7) Tribal and Bureau schools are underfunded and undersupported in both fiscal and physical assets, and the Federal government has failed to carry out its responsibility to provide the best education possible for Indian students.

8) That there are problems with students transitioning from grade level to grade level and school to school, and that there is a need for teachers specifically trained for dealing with Indian students' special academic and cultural needs and beliefs.

9) That the inherent right of all Tribes to make the decisions relating to the welfare and education of their children is recognized, that it should be given scope and nothing should be done to interfere with it.

(b) Now, therefore, the Congress states that it is the policy of the United States;

1) To reaffirm the trust responsibility of the Federal government to the Indian tribes to provide quality educational services to Indian students, whether directly or through contract or grant, taking into account the educational, spiritual, mental, physical and cultural aspects of each student and their families and Tribes;

2) To ensure that Indian tribes ~~and communities and parents and students~~ fully exercise self-determination and control in planning, priority-setting, development, management, operation, staffing and evaluation of all aspects of the educational process, protecting and encouraging the right of Tribes and communities to govern their internal affairs in all matters relating to education.

3) To promote, respect, and defend the cohesiveness and integrity of the family and Tribes, as they relate to the educational and social prerogatives of the Tribes, especially through the promotion of respect for cultural practices and religious beliefs consistent with Tribal wishes and the provisions of the American Indian Religious Freedom Act (42 U.S.C. 1996) and the provision of educational services in the best setting for the student and as close to the student's home as possible.

4) To provide comprehensive multicultural and multilingual education programs, including production and use of educational materials, culturally appropriate methodologies, evaluations (including a program to encourage research in this area), accurate and culturally specific assessment instruments, and learning strategies that will reinforce, preserve and maintain Indian communities and families and that will reinforce, preserve and maintain Indian languages, cultures, and histories,

5) To encourage and support Tribes in the establishment of Departments or Divisions of Education, education codes and comprehensive education plans,

6) To create programs to ease the transition of Indian students between grades and schools,

7) To create programs for more in-service and pre-service training for teachers of Indian children

8) To create an atmosphere where individual students and their families may choose any life path, with adequate preparation having been given and support provided

9) To serve as an advocate for Indian Tribes, ~~communities and students~~ in all forums, including State and local government (particularly as relates to Impact Aid and the Johnson-O'Malley and all elementary and secondary education programs), involving other educational entities and assume an assertive role in coordinating comprehensive support for Indian students internally and from other agencies in education, mental and physical health, juvenile justice, job training, and other related programs;

10) To ensure that each agency or local school board shall be authorized and empowered to function as the policy making body for the school, consistent with the authority granted by the Tribe(s);

11) To provide the Indian parent with a choice as to which school or type of school their child shall

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attend, except that residential programs shall not be used as substitutes for providing adequate local family social services;

12) To promote the community school concept by encouraging year-round multi-use of educational facilities, equipment and services

13) To promote the notification of Indian Tribes of proposed, pending or final Federal legislation, regulations, appropriations, Solicitor's opinions and Attorney General opinions, and court decisions affecting education for the purposes of information and consultation

14) To vigorously encourage and support alternative, innovative and exemplary programs reflecting Tribal specific learning styles, including but not limited to, parent-based early childhood education programs, adult and vocational technical education, library and media services, special education, gifted and talented summer and career development programs;

16) To provide support and technical assistance at all levels for the training of duly sanctioned Tribal educational representatives involved in educational decision-making, including pre-service and in-service training of educators;

17) To establish and enforce policies and practices to guarantee equal opportunity and open access to all Indian students to matters relating to their education programs consistent with the provisions of the Privacy and Freedom of Information Acts; and

18) To aggressively seek sufficient appropriations to carry out all aspects or this Act.

Section 1122 - Accreditation
(a) Purpose and relation to other Acts

(1) The purpose of the standards implemented under this section shall be to afford Indian students being served by a Bureau operated school with the same opportunities as all other students to achieve the highest academic standards embodied in the GOALS 2000 Act and its successors, Consistent with theprovisions of this section and section 1130 (Policy of Indian control) of this Part, the Secretary shall take such actions as are necessary to coordinate standards implemented under this section with those of State improvement plans developed and implemented pursuant to the GOALS 2000: Educate America Act for the States in which each Bureau operated school operates. The Secretary shall also see that such implementation is coordinated with the Comprehensive School Reform Plan, developed by the Bureau consistent with the GOALS 2000 legislation.

(2) School Boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with their tribal governing body(ies) and their communities, shall adopt declarations of purposes of education for their communities, analyzing the implications of such purposes of education in their communities, analyzing the implications of such purposes for their schools and determining how such purposes may be made to motivate students and faculties. Such declarations shall represent the aspirations of a community for the kinds of people the community wants its children to become, and shall include assuring that all learners are becoming accomplished in things and ways important to them and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind, and becoming increasingly effective in shaping the character and quality of the world all learners share. These declarations of purpose shall form one source influencing the standards for accreditation to be accepted by the schools.

(3) Pursuant to the language in the GOALS 2000 - Educate America Act, and any other provision of law notwithstanding, funds received from the Bureau and under any flow through program from the Department of Education or any other Federal agency may be used for school-wide projects to improve the educational program for all students and to help all students.
(b) School accreditation.

(1)(A) Within 12 months of the date of enactment of this provision, all Bureau funded schools shall meet the standards for accreditation of a tribal body (if such standards have been accepted by formal actionof the tribal governing body), a regional accreditation agency, National standards, or State accreditation standards for the State in which it is located.

(B) Beginning with the publication of the first Annual Report as described in Section 1122 (C) below, such accreditation shall be voluntary for any BIA funded school which has fully met its student academicoutcome improvement objectives for the report year. Schools not fully meeting such objectives shall be required to obtain or remain accredited by one of the above agencies until they do.

(2) The accreditation type and standards applied for each school shall be determined by the School Board of the school and the Administrator of the school working together, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the choice of the School board, with the approval of the tribal governing body, shall be the determining factor. Special consideration will be given to establishing an early childhood program in every Bureau funded elementary school. This program shall be eligible when funds are distributed under Section 1127.

3) Within 12 months, or at the date that the last school ceases using them as the standards for its program, the Bureau shall repeal the standards it has promulgated in the Federal Register, and shall publish no more standards.

(C) Program and Performance Budgeting and Reporting

Within one (1) year of the date of enactment of this provision, the National Council on Education Statistics (NCES) shall establish and implement a system of reporting the annual aggregate revenues by revenue

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source; aggregate and per-pupil expenditures by major cost objective; and overall program performance of all BIA funded schools. The NCES shall develop the system in full consultation with representatives of all established National and Regional BIA and Contract/Grant School Board Associations, the National Indian Education Association, the National Advisory Council on Indian Education, and all Tribal Divisions or Departments of Education wishing to be represented.

1)School program expenditure reporting categories shall be comparable to those used by the NCES in aggregating the revenues and expenditures and calculating per-pupil expenditures, forpublic elementary and secondary schools in the several States.

i) As benchmarks for adequacy of funding, weighted NCES national average per-pupil expenditures for comparable purposes shall be reported ~~for the several State in which the BIA funded school, is located~~. This shall be done by adjusting the raw NCES public school averages using the most current General Accounting Office student-needs-based funding equity weights to reflect the physical isolation, poverty conditions, special education needs, and limited English proficiency of the students served by BIA funded schools.

2)The ~~NCES~~ report shall separately ~~report~~ *show* expenditures for boarding operations and related home living programs of counseling and guidance, special education, recreation, food service and transportation required as part of such operations; and also

i) Any other common class of costs for BIA funded schools which have no substantial counterpart in the cost data reported for public school expenditures by the NCES.

3)In addition, the report to be generated by the system, to be known as the BIA Education Annual Report, shall:

i) Report the current Accreditation status of all BIA funded schools.

ii)Aggregate and report information regarding the relationship between the academic content and performance standards adopted by BIA funded schools and those of the several States in which they are located.

iii) Identify any substantial differences between the BIA and Public School systems in current content and performance standards as required to accommodate for past deficiencies in academic progress by Indian students, and to implement tribal policies for student instruction in tribal languages and culture.

iv) Describe and quantify the annual objectives for improvement of student outcomes established by the BIA funded schools.

(1) Subject to the availability of additional funding to meet the need for program improvement, such objectives shall seek to achieve cumulative progress leading to average grade level performance by BIA funded school students on Suite standards in major content areas within ten school years of the publication of the report.

4)In keeping with the Government Performance and Results Act, the Annual Report shall also objectively document the progress of the school system toward the accomplishment of these student outcome objectives for the school year reported, and of such other system-wide objectives as are adopted under the Bureau's Consolidated School Reform program. The Report shall further:

i) Summarize the results of local school-improvement-teams' formative evaluations of school and boarding program quality and comprehensiveness, and those improvements that the schools have committed to making without additional funding.

ii)Identify those measurable increases in local school and boarding program productivity that can be achieved only if additional funding is provided: prioritize and project them as a series of sequential annual performance improvement objectives.

iii) Project objectively the net additionalcost and benefits, system wide, of thenext year's accomplishment of such program performance improvement objectives.

iv) Project objectively those future cost increases, system wide, which will result from uncontrollable increases in the average cost and availability of normal goods and services required for school and related operations.

5)The documentation upon which the Annual Report is based shall include:

i) The results of at least one annual administration of a locally selected nationally standardized achievement test at each school.

ii)Such other measures and record keeping techniques as may be necessary to document the achievement of objectives not measured by nationally standardized tests.

iii) Reasonably standardized and objective methodologies for projecting future expenditures, and the noses of proposed program performance improvement activities.

iv) The Secretary shall take such steps as are necessary, including reports of independent auditors, to assure the validity of the data reported, and the reliability of the procedures used to create it.

v)The Secretary shall also report the name, location and Congressional district of any BIA funded school which fails to report the required data in time for

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inclusion in the aggregate report for the year for Bureau funded schools as a whole.

6)The Annual Report shall also include similar revenue and cost data, goals, objectives and program performance and improvement data for all other educational programs funded through the Office of Indian Education Programs, and also its Central Office. Area and Agency administrative operations, and related Facility Management and Administrative Support Operations

7)For each school year beginning on and after July 1, 2001, the Secretary shall summarize the information gathered through the system described herein as a report of overall BIA School Operations program performance and funding need, and shall publish it in the Federal Register on or before December 31 of the following school year and submit copies to the oversight committees of the Congress.

d) Closure or consolidation of schools

1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1992 may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, transferring to another authority, consolidating, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

3) Whenever closure, transfer to another authority, consolidation or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe(s), tribal governing body(ies), and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to another authority, consolidate or substantially curtail a school, the affected tribe(s), tribal governing body (ies), and designated school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the Congress and its appropriate Committees and published in the Federal Register.

4) The Secretary shall make a report to Congress, the affected tribe(s), and the designated school board describing the process of the active consideration or review referred to in paragraph (3) At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.

5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of a school operated as of January 1, 1999 only if the tribal governing body approves such action.

e) Application for contracts or grants for non-Bureau funded schools ~~or expansion of Bureau funded school~~

(1)(A)(i) The Secretary shall only consider the factors described in subparagraph (B) and (C) in reviewing-

(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; ~~and~~

~~(II) applications from any tribe or school board of any Bureau funded school for~~

~~(aa) a school which is not a Bureau funded school, or~~

~~(bb) the expansion of a Bureau funded school which would increase the amount of fund routed by the Indian tribe or school board under section 1127 of this Part.~~

(ii) The Secretary shall give consideration to all the factors under subparagraph (B), but none of the applications under clause (i) may be denied based primarily upon the geographic proximity of public education

(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

(I) the adequacy of the facilities or the potential to obtain or provide adequate facilities.

(II) Geographic and demographic factors in the affected areas.

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(iii) Adequacy of the applicant's program plans or, in the Use of a Bureau funded school, of projected needs analysis done either by the tribe or by Bureau personnel.

(iv) Geographic proximity of comparable public education.

(v) The stated needs of all affected parties, including students families, tribal governments at both the central and local levels, and school organizations.

(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at use time the affliction is considered:

(I) Geographic and demographic factors in the affected areas.

(ii) Adequacy and comparability of programs already available.

(iii) Consistency of available programs with tribal educational codes or tribal legislation on education.

(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(2) Grade Level Expansions
Approval of applications for grade level expansions of Bureau funded schools, which would increase the amount of funds received by the Indian tribe or school board under section 1127 of this Part, shall be considered separately from applications for new schools.

In determining whether to approve an application for school expansion, the Secretary shall consider the following factors relating to the program that is the subject of an application under this provision:
(a) The expansion request is for no more than one grade level in any given school year.
(b) The adequacy of existing facilities to support the program(s) proposed or the applicant's ability to obtain or provide adequate Facilities.
(c) The consistency of the proposed program(s) with tribal education codes or tribal legislation on education.
(d) The history and success of the applicant's services to the population already served, as determined from all applicable factors.

(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by not later than the date that is 180 days after the day on which such application is submitted to the Secretary.

(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if -

(I) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

(II) written evidence of such approval is submitted with the application.

(B) Each application described in paragraph (1)(A) --

(I) shall provide information concerning each of the factors described in paragraph (1)(B) and

(II) may provide information concerning the factors described in paragraph (1)(C).

(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall-

(A) state the objections in writing to the applicant by not later than the date that is 180 days after the day on which the application is submitted to the Secretary,

(B) provide assistance to the applicant to overcome stated objections, and

(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and the opportunity to appeal the objections raised by the Secretary.

(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

(6) Nothing in this section shall be read so as to preclude the expansion of grades and related facilities at a Bureau funded school where such expansion is occasioned or paid for with non-BIA funds. Facilities needed for such expansions shall be added to the Bureau's list of facilities to defray operations and maintenance.

(f) Indian Accreditation organizations

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(1) With the concurrence of the Tribal government(s) involved, a School Board may seek accreditation under the School Accreditation system of another Tribe or Consortium of Tribes.

(2) The Assistant Secretary is directed to take such action as may be necessary to secure private or public funding to support a National Indian education organization, or a consortia of regional Indian education organizations, to form an Indian accreditation organization, whose focus shall be on formulating accreditation standards and protocols which take into account the special needs and abilities of Indian students, and the special desires of Indian communities and tribes. This Indian accreditation organization shall be reviewed, before it gives effect to accreditation to any school, by the Secretary of Education, to be sure it meets the standard for accreditation organizations. Once approved by the Secretary of Education, accreditation by this Indian accreditation organization shall meet the requirements of this section.

~~(3) The Assistant Secretary is directed to make setaside from funds appropriated under Central Office or Area and Agency Administrative Costs of an amount of $100,000 per Fiscal Year for the purpose of encouraging and establishing this entity, provided that the contract for support shall be for period of not more than 3 years.~~

Section 1123 - National criteria for home living situations.

(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Ind an organizations and tribes, has established national standards for home-living (dormitory) situations in Bureau funded schools, ~~and those regulations, as they exist on the date of enactment, shall constitute the Bureau's standards~~. Such standards shall be implemented in Bureau operated schools, and shall serve as recommendations for schools operated under contract with the Bureau or under grant. Such standards shall include heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements) space and privacy and professional developmentof current and prospective employees (to provide them with skills necessary to deal with the Indian youth of today). Once established, any revisions of such standards shal be developed according to the requirements established under section 1137 of this Part.

(b) Implementation

The Secretary shall implement the standards established under this section immediately. At the time of each annual budget submission for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress, the Tribes and the effected schools, for the latter either directly or by publication in the Federal Register, a detailed plan to bring all Bureau funded schools, including Bureau operated, contract and grants schools, up to the standards published under this section, or, in thecase of contract or grants schools, established by those schools. Such plan shall include a statement of the relative needs of each boarding school in the future, detailed information on the status of each school in relation to the standards established under this section, specific cost estimates for meeting each standard for each school, and specific timelines for bringing each school up to the level required by such standards.

(C) Waiver

A tribal governing body, or the local school board (if so designated by the tribal governing body), shall have the authority to waive, in part or in whole, the standards established under this section where such standards are deemed bysuch body to be inappropriate. The tribal governing body, or designated school board, shall, within 60 days thereafter, submit to the Secretary a proposal of alternative standards that take into account the specific needs of the tribe's children. The Secretary shall, within the budget stipulated for the school pursuant to section 1127 of this Part, put such amended standards into effect.

(d) Limitation

No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the standards established under this Action) may be closed, transferred to another authority, consolidated or have its program substantially curtailed, for failure to meet the standards established under this section.

Section 1124 School Boundaries

(a) Purpose

The purpose of school boundaries is to assure that each eligible Indian student is, and remains, in school until such student achieves a high school diploma. Each Bureau funded school shall be responsible for enrolling and serving each such student of an age served by the school and living within the school's attendance area, who is not enrolled in another public, private or Bureau funded school.

(b) Establishment

The Secretary shall, in accordance with this section, establish, by regulation, separate geographical attendance area for each Bureau school.

(c)(1) Except as provided in paragraph(2), on or after July 1, 1999, no attendance area shall be changed or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded a least 6 months notice of the intention of the Bureau to change or establish such attendance area and (ii) has been given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary

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finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall publish the end result in the Federal Register as a regulation.

(2) In any case where there is more than 1 Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

(3) Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of which school their child(ren) may attend, regardless of the attendance boundaries established under this section.

(d) No denial of funding

The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that child's home or domicile is outside of the attendance area established for that school under this provision, provided, however, that no funding shall be made available, without tribal authorization, to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

(e) Reservation as boundary

In any case where there is only 1 Bureau funded program located on an Indian reservation, the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decision or executive decision and as are accepted by the tribe) of the reservation served, and those students residing near the reservation shall also receive services from such program.

Section 1125 Facilities construction

(a) Compliance with health and safety standards

The Secretary shall immediately begin to bring all school dormitories and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provide greater protection, with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on October 20, 1994.

(b) Compliance Plan

At each time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (a) of this section into compliance with such standards. Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

(C) Construction Priorities

(1) Once every fiscal year, the Secretary shall submit to the appropriate committees of Congress and cause to be published in the Federal Register the system used to establish priorities for school replacement and construction projects. At the time any budget request for education is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

(2) In addition to the process for immediate construction needs outlined above, the Secretary shall, within 18 months of the date of enactment of this provision, establish a long-term construction/replacement listing for all Bureau funded schools, taking into account the age of all schools currently funded by the Bureau, their current condition and the useful life of such facilities, both at their inception and currently. The Secretary shall, using this information, propose a listing for the orderly replacement of all Bureau funded facilities over a period of 40 years, to enable planning and scheduling of budget requests. The Secretary shall cause this list to be published in the Federal Register for comment for a period of not less than 120 days. At the end of that time, the Secretary shall cause the list to be considered, in light of the comments received, and a final list shall be published. This final list shall become an official planning document for construction purposes.

(3) Nothing in this section shall be construed as interfering with or changing the construction priority list as it exists at time of enactment of this provision. Entities on that list shall maintain their position without reapplying. Additionally, the Committee directs and encourages all other Congressional and Administrative bodies to honor test these lists and not arbitrarily move schools up or down on the priority list through other legislation or means.

(d) Funding provisions

(1) Funds allotted to any construction or school replacement project under these priority systems shall not be withdrawn unless the project has been completed and accepted, and they are excess to the costs of the project.

(2) any other provision of law notwithstanding, in order to encourage the provision of new facilities in as timely a

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fashion as possible, the school boards and administrations of Bureau funded schools may make provision to carry-over funds from funds distributed under section 1127 of this Part of the educational program, without regard to the limitation in section 1127(f) for the purpose of pursuing facilities construction (either new or modifications). Where there is not agreement between the school board and the administration, the decision of the school board, after consultation with the tribal governing body, shall govern. Such funds may be carried forward only if such action does not materially decrease the education program offered to the students and does not endanger the accreditation or achievement of student performance objectives, ~~required by~~ in accordance with the requirements of section 1122. Such carry over shall be without regard to fiscal year. Such funds may be used for construction without any additional administrative or legislative action.

(2)(i) In order to encourage tribes and or Bureau funded schools which have the financial capability to participate in the education of their students, the Secretary is authorized to consider tribal offerings of education bonds, which shall be exempt from tax by the United States government or any of the several States, the proceeds of which may only be used for construction of facilities for the education of Indian students. In those instances in which the Secretary determines that the bonds will be let at a reasonable rate and are secured by good and reasonable assets for their ultimate retirement, the Secretary is authorized to provide the tribe offering such bonds with the guarantee of the "full faith and credit" of the United States with respect to the bonds to be issued. Such full faith and credit shall beregistered on the bonds directly and may be relied upon by their holders. It shall be honored by all instrumentalities of the United States. .

(ii) To allow more tribes to make use of this option the school board and administration of a Bureau operated school or the governing entity of a contract or grant school may allow ~~the funds distributed to it for operations and maintenance to be considered an allowable expense if used to defray the cost of any expenses associated with said bonds,provided that in the case of a school operated under grant, it may not use an amount in the fashion than is greater than 10%of the amount it cuirects under the grant~~ up to 5% of the Bureau funds distributed to it under this Partfrom any line item in the Bureau budget to defray any costs associated with said bonds. Such use shall be deemed an allowable cost under any cost principles for the audit of Bureau funded schools.

(e) Hazardous condition at Bureau school

~~(1)A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.~~

~~(2)(A) In making determination described in paragraph (1), the Bureau health and safety officer shall conduct an inspection of the condition of such plant accompanied by an appropriate tribal, county, municipal or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in paragraph (3) is taken. No negative action may be taken unless the findings are concurred in by the second, non-BIA inspector.~~

~~(B) If the health and safety officer conducting the inspection of a plant required under subparagraph (A) determines that conditions at theplant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions of the plants shall immediately cease and any school closed by reason of conditions at the plantshall be reopened immediately.~~

(1) If plant conditions constituting an immediate threat to the lives of the
of users of any Bureau funded school facility are found by a certified Bureau
safety officer, that officer may order the immediate evacuation of any area
of the facility which is deemed hazardous. He or she shall then immediately
notify the chief school administrator, the chairperson of the school board
and the appropriate health and safety officials of the Tribe(s) served by the
school regarding these conditions.

(a) The affected areas of the school facility shall not then be re-occupied until the life safety conditions so noted by the health and safety officer have been abated and the abatement verified by that or another certified health and safety officer.

(b) During the emergency, minor environmental health standards, such as space occupancy criteria, number and configuration of restrooms, location of exit doors, and similar non-immediately-life threatening matters, shall be waived to permit continuation of services in other structurally sound school controlled facilities, such as staff quarters.

(2) any decision requiring the total closure of a Bureau funded school, as the result of such conditions, shall require the concurrence of a second tribal, county, municipal or State health and safety official regarding the hazards involved.

(a) Such decision shall be reached by the school board of the school, in consultation with the appropriate officials of the tribe(s) served, and shall include a plan for continuation of education services to the students involved. .

(b) Such decision, if requiring total closure of the school for a period of more than one monthand less than one year, shall be treated as an emergency Facility Improvement and Repair

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project by the Bureau. In addition, if authorized by action of the School Board, the use of school operations funding which would lapse while the program is closed down, to abate the hazardous conditions, shall be an allowable cost under any cost principles applicable to the audit of the program involved.

(C) If a Bureau school is temporarily closed or consolidated or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that are found, after the inspection required under this paragraph, to constitute an immediate hazard to health and safety and the closure, consolidation or curtailment will last for more than 1 year in duration, the Secretary shall submit to the Congress, by not later than the date that is 6 months after the date on which the closure, consolidation or curtailment was initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard and the timeline by which such actions will be concluded.

(f) Hazardous Buildings on school grounds

Any other provision of law notwithstanding, if a school board and administration conclude that there is, within the boundary of the school property, a building or structure which constitutes a health and safety hazard or an Attractive nuisance", endangering the students of that school, the School board and administrator may petition the tribal governing body for a resolution asking for its demolition. If the tribal governing body passes such a resolution, the Secretary shall act on it ~~as soon as is possible~~, on an emergency basis and destroy the building or structure constituting the menace.

(g) Funding requirement

(1) Beginning with the fiscal year following the year of the date of enactment of this provision, for all schools funded by the Bureau, all funds appropriated for the operations and maintenance of the schools shall be distributed by formula to the schools. No funds from this account may be retained or segregated by the Bureau to pay for the administrative or other costs of any facilities branch or office, at any level of the Bureau. The Bureau shall make provision to request funds to cover these administrative costs from administrative accounts.

(2) No funds shall be withheld from the distribution to the budget of any school operated under contract or grant by the Bureau of Indian Affairs for maintenance or any other facilities or road related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel said agreement upon giving the Bureau 30 days notice of its intent to do so.

(h) Bearing in mind the trust responsibility of the Federal government to encourage education of Indian students, nothing in this provision shall be construed to diminish any federal funding due to the receipt by the school of funding for facilities improvement or construction from the State or any other source

Section 1126 - Bureau of Indian Affairs Education functions

(a) Formulation and establishment of policy and procedure; supervision of programs and expenditures.

The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to the formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

(b) Direction and supervision of personnel operations

The Director of the Office shall direct and supervise the operations of all federal personnel directly and substantially involved in the provision of education services by the Bureau, including school or institution custodial and maintenance personnel, facilities management, contracting, procurement and finance personnel.

(c) Education Line Officers - Subject to the provisions of subsection (a) of this section, several of the functions of the education line offices are contractible under P.L 93-638. Plans to contract such functions must include provisions to serve, with no diminishment in services those schools which have not elected to convert their schools to grant or contract status and those grant or contract schools that wish their respective line offices to continue to provide specified services to them.

The functions of the education line offices are contractible to tribes or tribal organizations that are assuming administrative oversight, technical assistance or other regulatory functions over the schools involved. This may include the function of receiving and acting upon appeals from local BIA school supervisors of school board decisions on the local financial plans and personnel actions: et al. Tribes may also elect to authorize grant or contract schools to contract functions other than administrative or regulatory oversight.

Those functions of the line offices which are determined to be inherently federal are not contractible. In cases where there is a dispute concerning the functions or the funding available for contracting, the matter will be decided according to the dispute provisions of P.L 93-638.

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~~(1) subject to the provisions of subsection (g) of this section, all education personnel who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b) shall be subject to having their positions contracted by the schools in the Area or Agency in which they serve, or if such positions are not contracted by the schools, by the tribe or tribes in the area or agency in which they serve. In the instance of any agency or area serving more than one school, such contract shall require the consent of a of a majority of the schools served. In the case where the schools do not contract, and the agency or area serves more than one tribe, such contract shall take the majority action of the tribes who have students being served by Bureau funded schools, as evidenced by action of the tribal governing bodies. The duties of entity, subject to negotiation of same with the Director, provided that in the case of a failure to agree on the duties to be performed, the specifications of the contractor shall be controlling. Such contracts shall be for a term of years set at the outset of the contract and shall be followed by the Director, that the position no longer supports the schools or tribes involved and should be abolished. Such a termination shall be followed by the Bureau, unless the Assistant Secretary, upon appeal by the Director, finds for good cause and in writing, that such position is necessary to the Bureau fulfillment of its responsibilities.~~

~~(2) The Director shall perform through Bureau employees under the direction and supervision of the Director only the following duties~~

~~(A) provision of technical assistance to Bureau funded schools and tribes,~~

~~(B) provide for Bureau operated schools technical assistance in the areas of budgeting and procurement; and~~

~~(C) carry out such assignments as are specifically and unequivocally made by statute, provided that in doing so, the education advisor will exercise the least substantive authority possible, consistent with fulfillment of the task.~~

~~Such education advisors will serve in a technical assistance and support capacity and will not serve in a supervisory capacity, except as requested by individual schools, encompassing a request by both the administration and school board of the school.~~

~~3) Contracting Mechanism -- The contracting permitted under this subsection shall subject to the provision of Pub L. 93-638, the Indian Self Determination and Educational Assistance Act, provided that none of the functions subject to contracting hereunder may be designated by the Secretary as inherently federal functions except fund distribution, student enrollment verification, grant application acceptance, and any reports required by other provision of law to be filed with the federal agency. To the maximum practicable extent, the Secretary shall consolidate these enumerated inherently federal functions into one position in order to facilitate the intent of this subsection~~

(d) Construction and improvement of facilities; operation and maintenance of facilities

(1) The Assistant Secretary shall submit in the annual budget a plan--

(A) for school facilities to be constructed under the system required by section 1125 of this Part;

(B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and

(C) including a five-year plan for capital improvements.

(2)(A) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include--

(i) a method of computing the amount necessary for each educational facility;

(ii) similar treatment of all Bureau schools;

(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate school officials,

(iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor, which includes meetings at the agency and area level with representatives of all Bureau funded schools in those areas and agencies to have input into the lists and prioritization of such projects. Such meetings shall include all Bureau funded schools; and

(v) a system for the conduct of routine preventive maintenance.

(B) The appropriate school officials shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate school officials, except that no funds under this chapter may be authorized for expenditure unless such appropriate school official is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

(3) The requirements of this subsection shall be implemented, where they have not already been implemented, immediately.

(e) Acceptance of gifts and bequests

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Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the use to which such gift or request is put, and any positive results achieved by such action.

(f) Function defined

For the purpose of this section the term "functions" includes powers and duties.

(g) Reorganization of the Bureau of Indian Affairs Education Function

(1)(A) Notwithstanding any other provision of law, not later than 120 days after the enactment of this provision, the Secretary shall enter into negotiations with ~~the panel established under GOALS 2000 and~~ representatives of tribes being served by schools funded by the Bureau (such representatives to be chosen on a representative basis proportionate to the number of tribal members served be Bureau funded schools and by the tribes affected ~~and to constitute 2/3rds of the panel participants~~ for the reorganization of the Central Office of the Bureau for all functions, including functions of the Bureau's Facility Management and Construction Center, as they relate to education, wherever situated administratively. The Secretary shall see there is equitable representation from each area served by the Bureau school system. No later than 270 days after the date of enactment of this provision, the Secretary shall complete such negotiations and publish a plan in the Federal Register for the reorganization of the Central Office, such plan to be decided by the majority vote of the tribal and GOALS representatives participating.

(B) The Plan required under subparagraph (A) shall include consideration of the reorganization of the administrative structure of the Central Office and the Education functions of the Bureau a Facility Management and Construction Center the need for each function performed by the Central Office ~~and the ability to reorganize and delegate such function to an area or agency office or to a school~~ the need for the retention of each function or aspect thereof, the staffing/personnel needs for the Central Office and such other issues as shall be identified by the tribal and school representatives participating.

(C) The Secretary shall identify the amount of funding ~~which would be available~~ needed pursuant to the needs for funding for the Central Office beforeand after the plan developed under this provision for each area having tribes with schools funded by the Bureau. ~~Such funds shall be distributed to the tribes having schools funded by the Bureau, based on the number of schools they have serving their students and the size of such schools, for the establishment and maintenance of Departments or Divisions of Education. At the option of the tribe, the tribe may distribute these funds to the individual schools. Such funds may be combined with any other funds distributed under any other provision of this subsection.~~

(2)(A) Any other provision of law notwithstanding, beginning with a period 60 days after the completion of the activities encompassed under paragraph (1) of this subsection at the request of any tribe ~~or school funded by the Bureau served by any Area office, relating to the Area office within which it is located~~, the Secretary shall enter into negotiations under this paragraph to prepare a plan to reorganize the functions relating to education of each ~~Area~~ Education Line office so requested, provided that in an Education Line Office where there is located more than one tribe or school funded by the Bureau, the Secretary shall poll the other tribes or schools not making the initial request and shall enter into such negotiations upon a finding that a majority of tribes or schools served support such negotiations. Such negotiations shall cease at any time the Secretary is notified by a majority of tribes or schools affected they no longer support the negotiations.

(B) If a majority of representatives of tribes and schools determine there should be changes in the administrative structure of the education functions of an ~~Area~~ Education Line office, the Secretary shall negotiate with those entities on the makeup of the administrative structure for education functions at the ~~Area~~ Education Line Office level, no matter what administrative unit in which such functions are included. Such changes may provide for the reorganization of the administrative structure, the allocation of personnel (including determinations of office size and functions), the delegations of authorities to tribes or schools and the transfer of functions to tribes and schools and such other changes as may be recommended by the tribal or school representatives including in the case of a tribe served be more than one Education Line Office, the option to combine such Line Offices. One specific part of the plan shall deal with the functions to be retained by the ~~Area~~ Education Line office, particularly as they relate to services which are needed to be provided to small schools and tribes. In the construction of the plan for the reorganization, the Secretary shall make special provision for the waiver of any regulation needed to increase the authorities or functions which may be transferred to the tribes or schools.

~~(C) The Secretary shall identify the amount of funding which would be available for reallocation pursuant to the needs for funding for the Area Office before and after the plan developed under this provision for each Area having tribes with schools funded by the Bureau. Such funds shall be distributed to the tribes having schools funded by the Bureau, based on the number of schools they have serving their students and the size of such schools in each respective Area, for the~~

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establishment and maintenance of Departments or Divisions of Education. At the option of the tribe, the tribe may distribute these funds to the individual schools. Such funds may be combined with any other funds distributed under any other provision of this subsection. The plan shall identify the functions and the funding required to support them, which should remain under direct line authority of the Director of the Office of Indian Education Programs. It may also identify any functions not exclusively federal by law and the funding required to support them that the tribes wish to eliminate or to delegate to local schools, or to carry out by contract through a tribal Department or Division of Education. Funding previously required to support functions eliminated under the plan shall be pro-rata allotted in contracts or grants to the tribes served by the line office on the basis of the number of tribal members served as students in each tribe's BIA funded schools. Such funds may be retained by the tribe to support a tribal Department or Division of Education, or re-allocated by the tribe to the several schools that serve it and may be combined with any other funds received under provisions of this part.

(3)(A) Any other provision of law notwithstanding, beginning with a period 60 days after the completion of the activities encompassed under paragraph (1) of this subsection, at the request of any tribe or school funded by the Bureau served by any agency office, relating to the agency office within which it is located, the Secretary shall enter into negotiations under this paragraph to prepare a plan to reorganize the functions relating to education of each agency office so requested, provided that in an agency where there is located more than one tribe or school funded by the Bureau, the Secretary shall poll the other tribes or schools not making the initial request and shall enter into such negotiations upon a finding that a majority of tribes or schools served support such negotiations. Such negotiations shall cease at any time the Secretary is notified by a majority of tribes or schools affected they no longer support the negotiations.

(B) If a majority of representatives of tribes and schools determine there should be changes in the administrative structure of the education functions of any agency office, the Secretary shall negotiate with those entities on the makeup of the administrative structure for education functions at the agency level, no matter what administrative unit in which such functions at the agency level, no matter what administrative unit in which such functions are included. Such changes may provide for the reorganization of the administrative structure, the allocation of personnel (including determinations of office size and functions), the delegations of authorities to tribes or schools and the transfer of functions to tribes and schools and such other changes as may be recommended by the tribal or school representatives. One specific part of the plan shall deal with the functions to be retained by the agency office, particularly as they relate to services which are needed to be provided to small schools and tribes. In the construction of the plan for the reorganization, the Secretary shall make special provision for the waiver of any regulation needed to increase the authorities or functions which may be transferred to the tribes or schools.

(C) Part of the plan shall call for the calculation of the amount of funds which shall be necessary to operate the agency office under the plan, as opposed to the amount expended on its operation prior to the implementation of the plan, any excess in such amount to be available for redistribution to the tribes. Such funds shall be available for redistribution according to the number of students each tribe had in the schools served by the agency prior to the implementation of the plan, any excess in such amount to be available for redistribution to the tribes. Such funds shall be available for redistribution according to the number of students each tribe had in the schools served by the agency prior to the implementation of the plan for use by those tribes in the establishment and operation of a Department or Division of Education. At the option of tribe, the tribe may distribute the funds to schools funded by the Bureau serving students from those tribes. In distributing such funds, a small tribe/school minimum shall be considered.

(4)(A) Nothing in this provision shall be interpreted to allow the Secretary to transfer any of these funds into the Tribal Priority Allocation system. These funds shall be reserved by the tribes for the support of education.

(B) Nothing in this provision shall be interpreted as requiring, nor shall the Secretary or employees of the Bureau require or encourage tribes or schools to undertake reorganization efforts. Such efforts shall be at such time as the tribes and the schools determine, and shall be totally under the discretion of those entities.

1127 Allotment formula

(a) Factors considered revision to reflect standards

(1) the Secretary shall establish, by regulation adopted in accordance with section 1137 of this Act, a formula for determining the minimum annual amount of funds necessary to sustain each Bureaufunded school. In establishing such formula, the Secretary shall consider-

(A) the number of eligible Indian students served and size of the school;

(B) special cost factors, such as -

(i) the isolation of the school;

(ii) the need for special staffing, transportation or educational programs;

(iii) food and housing costs;

(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

(v) special transportation and other costs of

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isolated and small schools;

(vi) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated school board;

(vii) costs associated with greater lengths of service by education personnel;

(viii) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934, and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds

(ix) special costs for gifted and talented students

~~3) Upon the establishment of the standards required in sections 1123 and 1133 of this Act, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 2001, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling services for students in off reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1133 of this Act to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.~~

b) Pro rata allotment

Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a) of this section

c) Annual adjustment; reservation of amount for school board activities

(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) of this section to -

(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

(B) consider a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

(C) Take into account the provision of residential services on less than
9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved

(2)(A) From the funds allotted in accordance with the formula established under subsection (a) of this section for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of -

(i) ~~$5,000~~, *$8,000* or

(ii) the lesser of-

(I) $15,000, or

(II) 1 percent of such allotted funds,

for school board activities for such school, including and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education

(B) Each school board shall see that each new member of the school board receives, within 12 months of the individual's assuming a position on the school board, 40 hours of training in such subjects as the law pertaining to
schools funded by the Bureau and school boards, ethics, change, and other issues relevant to school board service.

3) The Secretary shall adjust the formula established under subsection (a) of this section to use a weighted unit of 2.0 for each eligible Indian student that-

(A) is gifted and talented; and

(B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school

4)(A) The Secretary shall adjust the formula established under subsection (a) of this section to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year long in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by each school.

(B) The adjustment required under subparagraph (A) shall be used for such school after-

(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students to be enrolled in the second school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without

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reducing allotments made under this section to any school by virtue of such adjustment.

(d) Reservation of amount for emergencies

The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of education facilities referenced under sections 1125(c) and 1125(f) of this Part, at a school (as defined by section 2503(c)(2) of this part). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. Whenever, the Director makes funds available under this subsection, the Director shall report such action to the appropriate committees of Congress within the annual budget submission.

(e) Eligible Indian student defined

For the purpose of this section, the term "eligible Indian student" means a student who-

(1) is a member of or is at least 1/4 degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau because of their status as Indians; and

(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

(f) Tuition

(1) An eligible Indian student may not be charged tuition for attendance a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition.

(2) The Secretary may permit the attendance at a Bureau school of a student who is notan eligible Indian student if-

(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of accreditation,

(B) the school board consents,

(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

(D) a tuition is paid for the student that is no more than that charged by the nearest public school district for out-of district students, such tuition to remain at the school in addition to the school's allocation under this section, provided such student does not attract funds under paragraph (4) of this subsection.

(3) The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attendits contract or grant school and any tuition collected for these students shall be in addition to funding received under this section.

(4) For students who are not eligible Indian students, where the school board agrees, the administration of the school may apply for funding under the Aid for Schools with Federally Impacted Students (Title VIII of the Elementary and Secondary Education Act, as amended, - Impact Aid), such funds to come directly to the school and to be in addition to any funds received under any other program. Theschool shall meet all requirements of that Act in making the application and reporting.

(g) Funds available without fiscal year limitation

Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision.

(h) Students boarding at the Richfield Dormitory, Richfield, Utah. Beginning with academic year 1994-1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 [25 USCS §2010] at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. No additional administrative costfunds shall be added to the grant.

Section 1128 - Administrative cost grants

(a) Purpose, effect upon appropriated amounts

(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools, provided that no school operated as a stand alone institution shall be calculated as less than $200,000 per year for these purposes, in order to-

(A) enable tribes and tribal organizations

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operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead servicesand operations necessary to meet the requirements of law and prudent management practice, and

(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees from resources other than direct program funds, in support of comparable Bureau operated programs.

(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

(b) Determination of amount; reduction for Federal education program payments; reimbursement by Federal department or agencies.

(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (C) of this section does not apply to other programs operated by the tribe or tribal organization.

(2) The Secretary shall-

(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

(B) take such actions as may be necessaryto be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

(C) Administrative cost percentage rate

(1) for the purposes of this section, the administrative cost percentage rate for a contractor grant school for a fiscal year is equal to the percentage determined by dividing-

(A) the sum of--

(I) the amount equal to-

(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

(II) the minimum base rate, plus

(II) the amount equal to-

(I) the standard direct cost base, multiplied by

(II) the maximum base rate, by

(B) the sum of-

(I) the direct cost base of the tribe or tribal organization for the fiscal year, plus

(II) the standard direct cost base.

(2) the administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

(d) Administrative cost account; limitation on availability of funds; effect upon indirect cost recovery determinations.

(1)(A) Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grantschool into a single administrative cost account without the necessity of maintaining separate funding source accounting.

(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educationalprograms may be included in the administrative cost account described in subparagraph (A).

(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

(4) In applying this section and section 450j of this title with respect to an Indian tribe or tribal organization that-

(A) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled School Act of 1988, and

(B) operates 1 or more other programs under a contract or grant provided under the Indian

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Self-Determination and Education Assistance Act

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full appropriated amount of the administrative costs that are associated with operating the contract or grant school, and of the appropriated indirect costs, that are associated with ~~operating the contract or grant school under the Tribally Controlled Schools Act of 1988~~, and all of such other programs, ~~except~~ provided that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

(e) Definitions

For purposes of this section:

(1)(A) The term "administrative cost" means the costs of necessary administrative functions which-

(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

(iii) are either -

(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

(B) the term "administrative cost" may include-

(i) contract or grant (or other agreement) administration;

(ii) executive, policy, and corporate leadership and decision making;

(iii) program planning, development, and management;

(iv) fiscal, personnel, property, and procurement management;

(v) related office services and record keeping; and

(vi) costs of necessary insurance, auditing, legal, safety and security services.

(2) The term "Bureau elementary and "secondary functions" means-

(A) all functions funded at Bureau schools by the Office;

(B) all programs-

(i) funds for which are appropriated to other agencies of the Federal Government, and

(ii) which are administered for the benefit of Indians through Bureau schools; and

(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

(3)(A) Except as otherwise provided in this subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during-

(I) the second fiscal year preceding each fiscal year, or

(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

(4) The term "maximum base rate" means 50 percent.

(5) She term "minimum base rate" means 11 percent.

(6) She term "standard direct cost base" means $600,000.

(7) She term "tribal elementary or secondary educational programs" means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

(f) Procedure where amount of funds necessary exceeds appropriated amount

If the total amount of funds necessary to provide grants to tribes and tribal organizations in The amounts determined under subsection (b) of this section for a fiscal year exceeds the amount of funds appropriated to carry out this Action for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) of this section for such fiscal year by an

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amount that bears the same relationship to such excess as the amount of such grants determined under subsection (b) of this section bears to the total of all grants determined under subsection (b) of this section for all tribes and tribal organizations for such fiscal year.

(g) Applicability to schools operating under Tribally Controlled Schools Act of 1988

The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

Section 1129 Uniform Direct Funding and Support

(a) Establishment of system and Forward Funding

(1) The Secretary shall establish, by regulation adopted in accordance with section 1137 of this Part, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with Section 1127 of this Part. All amounts appropriated for distribution under this section may be made available under paragraph (2).

(2)(A) For the purposes of affording adequate notice of funding available pursuant to the allotments made by section 1127 and education Facilities Operation and Maintenance allotments of this title, amounts appropriated in an appropriations Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

(B) For the period of time between the date of enactment of the appropriations to become available on July 1 of a fiscal year (as set forth in subparagraph (A) infra), and the July I date, the Secretary of the Interior and the Secretary of the Treasury shall take such action as may be necessary to segregate these funds in such a manner that they can be identified as being for distribution under this paragraph. These funds shall earn interest from the Treasury at the amount equal to the average of other funds borrowed by the Treasury during this period for meeting obligations of the United States. Such interest shall be added to these funds when such funds become available for distribution on July 1, as set forth in subparagraph (A) infra, increasing such funds above what was enacted in the original appropriations measure. The use of such interest from these funds shall be subject to the decisions of the local school board. No reduction in funding to the schools receiving such authority for distribution shall take place because of the presence of these funds The increase in funds occasioned by this paragraph shall be pro-ratably distributed with the first payment required under this Action based upon the average daily membership of schools eligible for funding under this Act.

(C) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

(I) publish, on July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of this Part of 85 percent of such appropriation; and

(II) publish, not later than September 30 of such fiscal year, the allotments to be made under Section 1127 of this title of the remaining 15 percent of such appropriation, adjusted to reflect actual costs depending on the actual student attendance.

(3)(A) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of not more than $50,000 of the amount allotted the school under section 1127 of this Part to acquire supplies and equipment and services for the school without competitive bidding if:

(I) the cost for any single item purchased does not exceed $10,000;

(II) the school board approves the procurement

(III) the supervisor certifies that the cost is fair and reasonable;

(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the price paid, the quantities acquired, and other information the supervisor or school board considers relevant.

The Secretary shall, no later than 6 months after the date of enactment of this provision, cause to be sent to each supervisor of a Bureau operated program and school board chairperson, and to the education line advisors of each agency and area and to the Bureau Division in charge of procurement, at both the local and national levels, a copy of this provision. The Secretary shall take such steps as may be necessary, including disciplinary action, to see that the implementation of this provision at the school level is not interfered with in any way.

(B) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, provided that the Director shall ensure that there is at least one such individual at each Bureau facility, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

(b) Local financial plans for expenditure of funds

In the case of all Bureau operated schools, allotted funds shall be expended on the basis of local financial plans which ensure meeting the accreditation

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requirements for the school established pursuant to section 1122 and which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and on its own determination or in response to the supervisor of the school to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. ~~The supervisor shall put into effect the decisions of the school board.~~ The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board. The supervisor of the school may appeal any such action of the local school board to the appropriate education line officer by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate line education officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

(c) Tribal division of education - Self Determination Act funds

The Secretary may approve applications for funding tribal divisions of education and development of tribal codes of education and standards for tribal accreditation from funds appropriated pursuant to section 450h(a) of this title.

(d) Technical assistance and training

In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

(e) Cooperative agreements

(1) From funds allotted to a Bureau school under section 1127 of this Part the Secretary shall, if specifically requested by the tribal governing body implement any cooperative agreement entered into between the tribe, the Bureau in consultation with the local school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or part of the following:

(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional or national or tribal accrediting entity and would not continue to be so accredited.

(B) Support services, including procurement and facilities maintenance.

(C) Transportation

(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or exchange of services.

(f) Product or result of student projects

Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of the project.

(g) Notwithstanding any other provision of law, no requirement in statute requiring matching funds or an amount of services or in-kind activity shall apply to Bureau funded schools. Nothing in this provision shall negatively influence the application of any Bureau funded school to participate in any program or project which has such a matching requirement. Such application of such schools shall be considered as if they had fully met the matching requirement.

Section 1130 Policy for Indian control of Indian education

(1) Facilitation of Indian control

It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

(b) Consultation with tribes

(1) All actions under this Act and this title relating to education and any activity providing support for education shall be done with active consultation with tribes.

(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options

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presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during I or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

Section 1131 Education Personnel

(a) In general

(1) Chapter 51, subchapter 111 of Chapter 53, subchapter _ of Chapter _ and Chapter 63 of title 5, relating to classification, pay and leave, respectively, of the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (p) of this section).

~~(2) Definition - for purposes of this section, the term Subordinate field office shall mean any area, agency or other non-Central Office unit of the Office of Indian Affairs, providing that it shall not refer to schools or peripheral dormitories.~~

(b) The provisions of part 38 of Title 25 of the Code of Federal regulations, as in effect on January 1, 1999, relating to the topics covered in this subsection are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection provided that for a period of 12 months after the date of enactment of this provision, the Secretary may make such changes in those regulations as are specifically required to bring them into conformity with this enactment. After such period, and with respect to any subject which is not specifically affected by this enactment, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that any such provisions of part 38 do not conform with this Act or any statutory provision of law, the provisions of this Act and the provisions of such other statutory law shall govern. Such regulations shall govern all education positions including positions located in the Office of the Director and all ~~subordinate field~~ education line offices --

(1) the establishment of education positions,
(2) the establishment of qualifications for educators and education positions,
(3) the fixing of basic compensation for educators and education positions,
(4) the appointment of educators,
(5) the discharge of educators,
(6) the entitlement of educators to compensation,
(7) the payment of compensation to educators,
(8) the conditions of employment of educators
(9) the leave system for educators, and
(10) such maters as may be appropriate

(C) Qualifications of educators

(1) In established regulations governing qualifications of all contract educators, the Secretary shall require:

(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in the appropriate office of the Office of Indian Education Programs,

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualification established by regulations in order for a tribal member to be hired in an educational position to teach courses in tribal culture and language. A determination by a school board that such a person shall be hired shall be followed by the supervisor.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines the failure to do so would result in that position remaining vacant.

(d) Hiring of educators

(1) In regulations governing the appointment of educators, the Secretary shall require-

(A)(i) that educators employed in a Bureau school (other than the supervisor of the school) shall be hired by the supervisor of the school;

(ii) each school supervisor shall be hired by the appropriate ~~supervisor of the subordinate field office~~ education line officer;

(iii) educators employed in ~~a subordinate field~~ education line office of the Office of Indian Education Programs (other than the ~~subordinate field officer supervisor~~ education line officer) shall be hired by the appropriate ~~supervisor of the subordinate field office~~ education line officer; and

(iv) each ~~supervisor of a subordinate field office~~ education line officer and educators employed in the Office of the Director of Indian Education Programs shall be hired by the Director.

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate ~~supervisor of the subordinate field offices~~ education line officer), the local school board for the school shall be consulted and that subject to paragraph (2) a determination by the school board that such individual should or should not be employed shall be followed by the supervisor (or with respect to the

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supervisor, by the appropriate ~~supervisor of the subordinate field office~~ education line officer).

(C) that before an individual may be employed in an education position at ~~subordinate field~~ education line officer level (or with respect to the position of supervisor of the appropriate ~~subordinate field~~ education line office by the Director) their appropriate agency school board (serving schools in the ~~subordinate field~~ education line office) shall be consulted, and that, subject to paragraph (3) A determination by such school board that such individual should or should not be employed shall be followed.

~~(D) that before an individual may be employed in an education position in the Office of the Director (other than the position of director), the national school boards representing all Bureau schools shall be consulted. A consensus determination by such boards that such individual should or should not be employed shall be followed by the Director.~~

(2) The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

(3)(A) The education line officer may appeal to the Director of the Office any determination by the local school board that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(B) The education line officer may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submited to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

(e) Conditions of employment of educators:

(1) Regarding the employment of educators, the Secretary shall see -

(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

(B) that no educator during the term of their contract may be discharged without notice of thereasons thereof and without being given an opportunity for a hearing under procedures that comport to the requirements of due process; and

(C) educators be notified at least 30 days prior to the end of their contract whether their employment contract will be renewed for the following year.

(2) The supervisor of a contract educator may discharge for cause any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the appropriate school board of such action. A determination by the school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the next highest direct officer in his/her chain of command. Upon such appeal, the stated officer may, for good cause and in writing to the local school board, overturn the determination of the school board with respect to the ~~employment~~ discharge of such individual.

(3) Each appropriate school board shall have the right-

(A) to recommend to the supervisor that an educator employed by the Office of Indian Education Programs be discharged; and

(B) to recommend to the supervisor of the appropriate ~~subordinate field~~ education line office or to the Director of the Office, that the supervisor of the school be discharged.

(f) Indian Preference

(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal governing body or organization

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grants, in writing, a waiver of the application of such laws with respect to such personnel action, if such waiver is in writing deemed to be a neccasity by the tribal governing body or organization, except that this paragraph shall in no way relieve the Bureau of the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy.

(2) For the purposes of this subsection, the tribal governing body or organization may, in connection with personnel actions referred to in this subsection, delegate to any school board (as defined in this Title) the authority to grant a waiver under such subsection with respect to such personnel action.

(3) The term "Indian preference laws' means section 472 of this title or any other provision of law granting a preference to Indians in promotions and other personnel actions, except such term shall not be considered to include section 450e(b) of this title

(g) Compensation or annual salary

(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation rate for educators and education positions at rates in effect under the General Schedule for individuals with comparable qualifications, to whom chapter 51 of title 5 is applicable or on the basis of the Federal Wage System schedule in effect for the locality, and for the comparable positions, the rates of compensation in effect for the senior executive service.

(B) The Secretary shall establish the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living) at the rates of basic compensation applicable on the data of enactment of this provision to comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay Act The Secretary shall allow the local school boards authority to implement only the aspects of the Defense Department Overseas Teacher pay provisions that are considered essential for recruitment and retention. Implementation is not to be construed to totally duplicate all aspects of the Department of Defense teachers pay Act.

-(C)(i) Beginning with the fiscal year following the fiscal year of the enactment of this provision, each school board shall have the option, and the Secretary shall give effect to the decision of said option, to pay teachers and counselors (including academic counselors) who are new hires at the school and who have not worked at the school on the date of implementation of this provision at rates consistent with the rates paid for individuals in the same positions, with the same tenure and training, in the public school within whose boundaries the Bureau school lies. In the case where such a provision leads to the payment of compensation at a rate which is less than in the fiscal year of enactment, the new rates may be applied to the compensation of employees of the school who worked at the school as of the data of implementation of this provision by application of those rates to each contract renewal in such a fashion that the reductions take effect in three equal installments. Where such rates lead to an increase in payment of compensation from the year of enactment, it shall be at the option of the Board whether to make the new rates applicable at the next contract renewal or to phase them in over three equal increases.

(2) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

(E) The establishment of rates of basic compensation and annual salad rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979 and who did not make an election under subparagraph (o) of this section as this statute existedon January 1, 1990

(2)(A) The Secretary may pay a post differential not to exceed 25 of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(B)(i) Upon the request of the supervisor and the local school board of a Bureau school. the Secretary shall grant the supervisor of the school authorization to provide I or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved ordecreased because there is no disparity of compensation for the involved employee or positions in the Bureau school. ascompared with the nearest public school, that is either-

(I) at least 5 percent, or

(II) less than 5 percent and affects the recruitment or retention of employees at the school.

(ii) The request under clause (i) shall bedeemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either--

(I) the local school board requests that such differential be discontinued or decreased, or

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(II) the Secretary or the supervisor determines by clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

(iv) On or before February I of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous year and listing the positions contracted under those grants of authority

(h) Annual and sick leave

Annual and sick leave for positions shall be provided under regulations prescribed pursuant to subsection (b)(10) of this section.

(i) Liquidation of remaining leave upon termination

(1) Upon termination of employment with the Bureau. any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance wth sections 5551(a) and 6306 of title 5. except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) of this section shall not be so liquidated.

(2) In any instance in which such leave must be liquidated it shall be liquidated in three equal payments to the individual of the monetaryvalue of such leave. the first payment for such leave to be made in the fiscal year following the termination of employment.

(j) Transfer of remaining sick leave upon transfer. promotion or reemployment

In the case of any educator who is transferred, promoted, or reappointed) Electbn not to receive stipend without break in service, to a position in the Federal government under a different leave system, any remaining sick leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) of this section shall be transferred to such person's credit in the employing agency.

(k) Ineligibility for employment of voluntary terminated educators

An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

l) Dual compensation

In the case of any educator employed in an education position described in subsection (n)(1)(A) of this section who-

(1) is employed at the close of a school year.

(2) agrees in writing to serve in such position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of Title 5, relating to dual compensation, shall not apply to such educator by reason of any such educator by reason of any such employment during a recess period for any receipt of additional compensation.

(m) Voluntary services

Notwithstanding section 1342 of title 312, the Secretary may, subject to the approval ofthe local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this section shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing voluntary services under this section is a Federal employee only for the purposes of chapter 81 of title 5, and chapter 171 of title 28.

(n) Proration of pay

(I) Election of employee

Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee. shall prorate the salary of the employee over a 12 month period. Each educator employed for the academic year shall annually elect to be paid on a 12-month bada or for those months while school is in session. No educator shall suffer a loss of pay or benefits. including benefits such as unemployment or other Federal or federally assisted programs, because of such election.

(2) Change of election

During the course of such year the employee may change election once.

(3) Lump sum payment

That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

(4) This section applies to those individuals employed under the provisions of section 1131 of this Part or title 5.

(o) Extracurricular activities

(1) Stipend

Notwithstanding any other provisbn of law, the Secretary may provide, for each Bureauarea. a stipend in

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lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated forall such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

(2) Election not to receive stipend

If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of Title 5 shall apply

(p) Definitions

For the purpose of this section-

(1) the term "education position" means a position controlled and directed by the Office of Indian Education Programs.

(2) the term "educator means an individual whose services are required or who is employed. in an education position.

(q) Covered individuals; election

This section shall apply to an educator hired after November 12, 1979 (and to any educator who elected to have these provisions apply to him/her after said date) and to any educator covered under paragraph (p)(2) and to the position in which such individual is employed. The enactmentof this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

Section 1132 Management Information system

The Secretary shall establish within the office a computerized management information system which shall provide information to the Office.

Section 1133 Uniform education proceedures and practices

The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of these divisions as relate to education and shallreport such practices and procedures to the Congress.

Section 1134 Recruitment of Indian educators

The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment

Section 1135 Annual Report

(a) In general

The Secretary shall submit to each appropriate committee of Congress. the tribes and the affected schools, a detailed annual report on the state of education within the Bureau based on the report required in Section 1122(C) of this part, and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

(b) Financial and compliance audits

The Inspector General ofthe Department of the Interior shall establish a system to ensure that financial and compliance audits are conduced of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129 of this Part.

(C) Beginning with January 1, 2002, no employee of the Central Office of the BIA Office of Indian Education Programs shall be permitted to travel at Government expense in any calendar year until the annual report for the second previous school year, as described in Section 11 22(C) above. has been published in the Federal Register

Section 1136 Rights of Indian students

The Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau schools. including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression and such students' right to due process and consistency with appropriate customs and practices of said students Tribe in connection with disciplinary actions, suspensions, and expulsions.

Section 1137 Regulations

(a) The Secretary is authorized to issue only such regulations as are necessary to ensure compliance with the specific provision of this Act. The Secretary shall publish proposed regulations in the Federal Register, shall provide a period of not less than 30 days for public comment thereon, and shall place in parentheses after each regulatory section the citation to the statutory provision(s) providing authority to promulgate such regulatory provision.

(b) Prior to publishing any proposed regulations and prior to establishing the negotiated rulemaking committee required by subsection(c). the Secretary shall convene regional meetings with representativesof Bureau funded schools. representatives of Bureau employees. and tribal officials. parents, teachers and school board members of tribes served by Bureau funded schools to provide guidance to the Secretary on the content of regulations authorized to be issued under this Act and

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the Tribally Controlled Schools Actof 1988, as amended

(c)(1) Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary shall promulgate such regulations as the Secretary is authorized to issue pursuant to subsection (a) and the Tribally Controlled Schools Act of 1988, as amended, in accordance with a negotiated rulemaking procedure under subchapter 111 of chapter 5 of title 5. and shall publish the final regulations in the Code of Federal Regulations.

(2) The authority of the Secretary to promulgate regulations under this Act and the Tribally Controlled Schools Act of 1988, as amended. shall expire if final regulations are not promulgated within 18 months after the date of enactment of this Act.

(3) NEGOTIATED RULEMAKING COMMITTEE. -- In establishing a negotiated rulemaking committee to carry out this subsection, the Secretary shall -

(A) apply the procedures under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States;

(B) ensure that the membership of the negotiated rulemaking committee includes only representatives of the Federal Governmentand of tribes served by Bureau-funded schools;

~~(C) select the tribal representative members of the negotiated rulemaking committee f rom among the individuals nominated by the representatives of the tribally operated school participants at the regional consultation meetings convened by the Secretary pursuant to subsection (b);~~

(D) ensure, to the maximum extent possible, that the tribal representative membership on the negotiated rulemaking committee reflects the proportionate share of students from tribes served by the Bureau funded school system; and

(E) comply with the Federal Advisory Committee Act, 5 USC App. 2.

(4) There are authorized to be appropriated such sums as necessary to carry out the negotiated rulemaking provided for under this section provided. hat in absence of a specific appropriation for this purpose. The Secretary shall cover the costs of the negotiated rulemaking proceeding from the general administrative funds appropriated to the Department of the Interior.

(5) If the Secretary determines that an extension of the deadline under subsection (c)(2) is appropriate. the Secretary may submit proposed legislation to Congress for extension of such deadline.

(d)(1) The provisions ofthis Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this Act. and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

(2) The Secretary may revise or amend regulations promulgated under this Act or the Tribally Controlled Schools Act of 1988. as amended. only in accord with the provisions of this section

Section 1138 Definitions

For the purpose of this Part. unless otherwise specified-

(1) the term agency school board means a body, the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant, and the number of members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school;

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term - "Bureau funded school" means

(A) a Bureau school;

(B) a contract school, or

(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

(4) the term "Bureau school" means a Bureau operated elementary or secondary day or boardingschool or a Bureau operated dormitory for students attending a school other than a Bureau school;

(5) the term "contract or grant school" means an elementary or secondary school or dormitory which receives financial assistance for its operation under a contract, grant or agreement with the Bureau under section 450f, 450h(a) or 458d of this title or under the Tribally Controlled Schools Act of 1988;

(6) the term "financial plan" means a plan of services provided by each Bureau school;

(7) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federal recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes;

(8) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and director of free public education in a county, township, independent, or other school district located within a

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State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(9) the term "local school board", when used with respect to a Bureau school, means a boy chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by theSecretary in consultation with the affected tribes;

(10) the term "Office" means the Office d Indian Education Program within the Bureau;

(11) the term "Secretary" means the Secretary of the Interior

(12) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school: and

(13) the term "tribal governing body" means, with respect to any school, the tribal governing body. or tribal governing bodies. that represent at least 90 perent of the students served by such school.

(14) the term "tribe" means any Indian tribe. band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United Sues to Indians because of their status as Indians.

Section 1139 Early Childhood Development program

(a) In general

The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations. or consortia.

(b) Amount of grant

(1) The total amount of the grants provided under subsection (a) of this section with respect to each tribe, tribal organization, or consortium oftribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the tonal amount appropriated under the authority of subsection (f) of this section for such fiscal year (less amounts provided under subsection (e) of this section) as-

(A) the total number of children under 6 yearsof age who are members of -

(I) such tribe
(II) the tribe that authorized such tribal organization, or
(iii) any tribe that-
(I) is a member of such consortium or
(11) authorizes any tribal organization that is a member of such consortium beare to

(B) the total number of all children under 6 years of age who are members of any tribe that-
(I) is eligible to receive funds under subsection (a) of this section.
(II) is a member of a consortium that is eligible to receive such funds, or (II) authorizes a tribal organization that is eligible to receive such funds.

(2) No grant may be provided under subsection (a) of this section-

(A) to any tribe that has less than 500 members,

(B) to any tribal organization which is authorized -
(I) by only one tribe that has less than 500 members, or
(II) by I or more tribes that have a combined tonal membership of less than 500 members, or

(C) to any consortium of tribes, or tribal organizations authorized by tribes, thathave a combined total membership of less than 500 members.

(C) Application

(I) A grant may be provided under subsection (a) of this section to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for a grant at such time and in such form as the Secretary shall prescribe.

(2) Applications submitted under paragraph (I) shall set forth the early childhood development program that the applicant desires to operate.

(d) Functions of programs

The early childhood development programs that are funded by grants provided under subsection (a) of this section-

(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including-

(A) prenatal care,

(B) nutrition education,

(C) health education and screening,

(D) educational testing, and

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(E) other educational services,

(2) may include instruction in the language, art, and culture of the tribe, and

(3) shall provide for periodic assessment of the program.

(e) Administrative costs

The Secretary shall, out of funds appropriated under the authority of subsection (f) of this section, include in the grants provided under subsection (a) of this section amounts for administrative costs incured by the tribe or tribal organization in establishing and maintaining the early childhood development program.

(f) Authorization of appropriations

For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary for each succeeding fiscal year.

Section 1140 Tribal departments or divisions of education

(a) In general

Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

(b) Grants

Grants provided under this section shall -

(1) be based on applications from the governing body of the tribe,

(2) reflect factors such as geographic and population diversity,

(3) facilitate tribal control in all maters relating to the education of Indian
children on Indian reservations and on former Indian reservations in
Oklahoma,

(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

(6) otherwise comply with regulations for grants under section 450b(a) of this title that are in effect on the date application for such grants are made.

(C) Priorities

(1) In approving and funding applications for grants under this section the Secretary shall give priority to any application that -

(A) serves three or more separate Bureau funded schools, and

(B) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department or divisions of education to be funded under this section will provide coordinating services and technical assistance to all of such schools ~~including the submission to each applicable agency of a unified application for funding for all such schools which provides that~~

~~(i) no administrative cost other than those attributable to the individual programs of such schools will be associated with the unified application, and~~

~~(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such school is entitled by law.~~

~~(B) includes assurances from the tribal governing body that the tribal department or division of education funded under this section will administer all contracts or grants (except those covered by the provisions of this chapter and the Tribally Controlled Community College Assistance Act of 1978 for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible.~~

(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirement of law, and

(D) provides a plan and schedule for -

(i) the assumption over the term of the grant by the tribal department or divisionof education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

(ii) the termination by the Bureau of such operations and office at the time of such assumption, except that when mutually agreeable between the tribal

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governing body and the Assistant Secretary, the periodin which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant

(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

(d) Terms, conditions or requirements

The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section

(e) Authorization of appropriations

For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary for each succeeding fiscal year.

Amendments to the Tribally Controlled Grants Schools Act.

Section 3 - "The following Amendments are made to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.):

(a) - Section 2503(a)(3)(C) of Part B of title V of P.L. 100-297, the Tribally Controlled School Act (hereinafter referred to as the Tribally Controlled Grants School Act) is amended to read as follows:

"(C) If funds allocated to a tribally controlled school under the Individuals with Disabilities Education Act are included in a grant provided under this Part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law must be expended under the terms of such law.'

(b) - Section 2503(C) of the Tribally Controlled Schools Act is amended by adding a the end thereof the following new paragraph:

"(3) Nothing in this or any other section of this law shall be interpreted as authorizing a tribe to require individual grantees, where the tribe is not the grantee but the grantee is a school board, Indian organization or other entity, to move money between grantees."

(C) - Section 2503(c)(2) is further amended by striking the term "under contract' and substituting therefore the term "under contract or grant".

(d) - Section 2503(f is amended by deleting the term "an" the first time it appears and substituting therefore "a".

~~(e) - Section 2504(b) of the Tribally Controlled Schools Act is amended by adding at the end thereof the following new paragraph:~~

~~"(6) Any other provision of law notwithstanding, this provision shall be interpreted so as to afford the tribally controlled grant school authority the right of first refusal over the administration and inclusion in the grant of any facilities funds referenced under paragraph (e)(2) of this section~~

(f) - Section 2505(b)(2)(C) of the Tribally Controlled Schools Act is amended by:

1) inserting the term "only' between the terms "consider' and "whether"

2) amending clause (iii) to read "ability to adequately manage a school,"; and

3) deleting the ", or" at the end of clause (iv), inserting in lieu thereof a "." and deleting clause (v).

(g) - Subsection 2505(d) of the Tribally Controlled School Act is amended by adding an "A' immediately after the current designation for paragraph "(2)", and adding at the end of paragraph "(2)'the following new subparagraph:

"(B) The requirement that a tribe take an "action authorizing" the grant is to assure the Secretary that the tribe, acting within the scope of its sovereignty, has approved of this grant. However, nothing in such action shall interpreted as making the tribe a party to the grant (unless the tribe is the grantee) or shall be interpreted as making the tribe financially or programmatically responsible for the actions of the grantee.Nothing in this requirement shall be interpreted as making the tribe stand surety for the grantees performance. This is a clarification of existing policy and is not intended to be interpreted as a new policy or as altering policy which has existed since the inception of the Act."

(h) - Section 2506(b) and Section 2506(c)(2)(A) of the Tribally Controlled Schools Act are amended by deleting "(within the meaning of section 2001(;) of this tide) and substituting in lieu thereof "within the meaning of section 1138(13)of this title)".

(I) - Section 2506 of the Tribally Controlled Schools Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the requirements with respect to the administrative functions for these schools found in this section and specifically referenced in any other section of this Act shall be the sole federal requirements placed on schools authorized under this Part. No other provision of law, procedure, regulation, circular or other administrative requirement shall be applied to these schools or used as authorization by any federal official for action or requirements.

(j) - Section 2506 of the Tribally Controlled

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School Act is further amended by deleting the end of the provision in subsection (b)(4) and adding the following new material:

" provided that it is encouraged that other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams. The frequency of these evaluations will be established by the terms of the accrediting agencies of the schools.

(k) - Subsection 2506(b) of the Tribally Controlled Schools is amended by adding at the end thereof the following new material:

The school shall deliver to the tribal governing body its copy of this report and then, within 30 days, submit it to the Bureau, and shall receive a signed acknowledgment from the appropriat tribal official of its receipt."

(l) - Subparagraph 2507(a)(1)(A) of the Tribally Controlled Schools Act is amended to read as follows:

"(A) the first payment shall be made not later than July 15 of each year in an amount equal to eighty-five percent of the amount which the grantee was entitled to receive during the preceding academic year, and".

(m) - Section 2507(a) is amended by deleting the material in paragraph (4) and renumbering current paragraph (5) as a new paragraph (4).

(n) - Paragraph 2507(b)(1) of the Tribally Controlled School Act is amended by adding at the end thereof the following new material:

"Such interest income shall be spent on behalf of the school."

(o) - Paragraph 2507(b)(2) is amended by deleting the word "Funds immediately after the designation of the paragraph "(2). and adding the following provision immediately followingthe designation of the paragraph:

"(2) Subject to the provision of paragraph (3) of this subsection, funds".

(p) - Subsection 2507(b)(2) is further amended by:

1) deleting the "or' at the end of subparagraph "A";

(q) "Section 5208(b) of the Tribally Controlled Schools Act of 1988, as amended [25 USC _2507(b)], is amended to read as follows and to add a new paragraph (3):

"(2) Subject to paragraph (3) hereof, advance payments made under this part may be invested by the grantee before such funds are expended forpurposes of the grant so long as such funds are -

"(A) invested by the grantee only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or in securities that are guaranteed or insured by the United States, or

"(B) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

"(3) In order to maximize the return on the investment of advance payments to the grantee, the grantee may designate an amount of up to 10 percent of the funds received under this part for investment in obligations not covered under paragraph (2) hereof, provided, that the grantee shall be held to the standard of a reasonable and prudent man with regard to such investment."

(r) - Section 2507 of the Tribally Controlled Schools Act is amended by:

1) amending the title of the section to read "Payment of grants, investment of funds; State payments to schools"; and

2) adding at the end thereof the followingnew subsection:

"(d)(1) No State shall take into account funds received under this Title when computing the amount of funds any school receiving assistance under this Ellde is eligible to receive under State law applying to said school. providing further that no State shall reduce the State payment a school receiving assistance under this Title is eligible to receive under applicable State law because of any funds received under this Title.

(2) Any State who violates paragraph (l) of this subsection shall be subject to the same penalties as would apply for violation of the similar prohibition found in Section 7709 of Title VIII of the Elementary and Secondary Act (Impact Aid, as amended).

(3) Upon receipt of information fom any source that a State is in violation of paragraph (l) of this subsection, the Secretary shall immediately, but in all cases within three months of such notice, investigate and make a determination of compliance. When the Secretary determines that any State is in violation of paragraph (l, of this subsection, the Secretary shall inform the Secretary of the Department of Education of the Secretary's findings and the basis for same. The Secretary of the Department of Education shall immediately apply the provisions of paragraph (2), in reliance upon the information of the Secretary."

(s) -- Section 5209(a) of the Tribally Controlled Schools Act of 1988, as amended, [25 USC _2508(a)] is amended to read as follows:

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"(a) CERTAIN PROVISIONS TO APPLY TO GRANTS. The following provisions of the Indian Self-Determination and Education Assistance Act and any subsequent revisions thereto or re-numbering thereof, shall apply to grants provided under this part:

(1) Section 5(f)[25 USC_450c(f)1] (single agency audit);

(2) Section 6 [25 USC _450d] (criminal activities; penalties);

(3) Section 7 [25 USC _450e] (wage and labor standards);

(4) Section 104 [25 USC _450i] (retention of federal employee coverage);

(5) Section 105(f) [25 USC _450i(f)] (federal property);

(6) Section 105(k) [25 USC _450j(k)] (access to federal sources of supply);

(7) Section 105(1) [25 USC450j(1)] (lease of facility used for administration and delivery of services);

(8) Section 106(f) [25 USC _450j-1(f)] (limitation on remedies relating to cost disallowances);

(9) Section 106(j) [25 USC _450j-1(j)1 (use of funds for matching or cost participation requirements);

(10) Section 106(k) [25 USC _450j-1(k)1 (allowable uses of funds);

(11) Model Agreement provisions (A)(5) (limitation of costs); (A)(7, (records and monitoring); (A)(8) (property); and (A)(9) [availability of funds] of Section 108(C) [25 USC _4501(c)]; and

(12) Section 109 [25 USC _450m] (sovereign immunity and trusteeship rights unaffected)."

(t) - The Tribally Controlled Schools Act is amended by redesignating "Section 2511 as "Section 2513" and by adding the following two new sections:

"Section 2511. The Tribally Controlled School Endowment Program.

(a) General

(1)(A) Each school receiving grants under this Part may establish, at a
federally insured banking and savings institution,a trust fund for the purposes of this section.

(B) The school shall provide -

(I) for the deposit in the trust fund of funds for the use of said school,
such funds to come from non-federal sources, provided that the interest on funds received from grantsunder this Part may be used for this purpose;
(II) for the deposit in the account of any earnings on funds deposited in
the account: or

(III) for the reservation for the sole useof the school any noncash, in-kind
contributions of real or personal property. which property may at any time be
converted to cash, provided that for the purposes of matching requirements of
this section, such property shall be valuated by an impartial appraiser at the time it is novated for the use of the school.

(2) The Secretary shall, within a schedule to be established by regulation and from funds appropriated for this purpose, make payments to be invested in the accounts established under paragraph (1).

(3) ~~The relative amounts of the funds to be contributed by the school and the Secretary shall is 40% from the school and 60% from the Secretary~~.

~~(4)~~ No school could receive more than $200.000 per annum in Federal funds from this program

(b) Interest

Interest from the fund established under paragraph (l) may be periodically withdrawn and used, at the discretion of the school. to defray any expenses associated with the operation of the school."

(C) Limitations

(1) If at any time, the school withdraws any capital contribution. as set forth in subsection (a), whether such contribution be funds deposited by the school or received horn the Secretary or puts any funds or property reserved under paragraph (l) to a use which is not for the sole benefit of the school. an amount equal to the federal contribution attracted by the amount so withdrawn or used shall be withdrawn from the trust fund and returned to the Secretary for redistribution under this section.

(2) For the purpose of complying with the contribution section, the school may use funds or property (either real or personal) fairly valued received from any non-Federal, private or tribal source

(d) Authorization

(1) There are hereby authorized to be appropriated such sums as may be necessary for each fiscal year beginning with fiscal year 2001 for this section

(2) In addition to the funds authorized under paragraph (l) of this subsection, any funds led over on September 30 of the fiscal year in the emergency contingency fund of the Director (Section 107(C) shall be placed in this account for use, without regard to fiscal year limitations.

(3) In addition to the amounts aforementioned, and notwithstanding any other provision of law, any funds which would, without this provision, eschew to the Treasury from any account held by the Bureau shall be placed in this account. Such funds shall remain available without fiscal year limitation.

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(d) In making distributions under this section the method for making distribution of funds under this section shall be decided under the Negotiated Rulemaking required under Section 1137 of P.L. 95-561, as amended by this Act.

"Section 2512 The Tribally Controlled School Capital Outlay and Redemption Fund

(a) General -- The Secretary shall establish, within 180 days of the enactment of this provision, the Tribally Controlled School Capital Outlay and Redemption Fund under the provisions of this section

(b) Establishment and Agreements -- The Secretary is hereby authorized to enter into Memorandum of Agreement with the Secretaries of Health and Human Services, Commerce,Agriculture and any other Secretary to affect the inter agency transfer of funds to the Fund established under this section, from funds appropriated to other Departments. The Memoranda of Agreement shall include rural development assistance programs, community facilities construction, facilities planning, and any other activity to enhance community education concepts. Notwithstanding any other provision of law, within 180 days of the establishment of this fund the Secretary is directed to transfer to the Fund $20,000,000 from the unobligated balances in appropriations accounts (as the term is defined in 31 U.S.C. 1551) for the Department of Interior, and shall be authorized to transfer up to said sum to such Fund on October I of each fiscal year.
(C) Use of the fund - establishment of two programs --(1) The Fund will be
divided into two equal sub-accounts, called the Capital Improvement Account and the Capital Revenue Redemption Account.
(A)(i) The Capital Improvement Account shall be established and set aside
for the sole purpose of facility improvement and repair The account will be equitably divided among all tribal schools based upon the formula set forth in this paragraph, and the previous years Average Daily Membership, as reported
during the Fall student count used to distribute funds under section 107 of this
Act. The amounts of such distribution shall be:

(aa) schools with less than 100 students, $50,000;

(bb) schools with at least 101 students and less than 301 students, $100,000;

(cc) schools with at least 301 students and less than 501 students, $175,000

(dd) schools with at least 501 students and less than 701 students, $250,000

(ee) schools with at least 701 students and less than 901 students, $325,000; and

(ff) schools with more than 901 students, $400,000.

After the initial distribution, if there are funds available in the Fund for any
fiscal year, they will be distributed upon the School's Average Daily Membership for the previous year.

(ii) Use -- the Capital Improvement Funds are restricted for emergency.
Safety and Health, Environmental, Disabled compliance, Physical Plant Energy, Additions to current plant and Programmatic expenditure categories as defined in the Facilities Maintenance system, commonly referred to as the FACCOM system It is to be used for immediate, imminent, critical, dangerous, serious safty, law or code related standards, and functional deficiencies

~~(B)(i) The Capital Revenue Redemption Account is to set aside for the sole purpose of new facility construction. The account will be equitably divided among all tribal schools based upon the formula set forth in this paragraph, and the previous years Average daily Membership, as reported during the fall student count used to distribute funds under section 197 of this Act The amounts for distribution shall be~~

~~(aa) schools with less than 100 students, $50,000~~
~~(bb) schools with at least 101 students and less than 301 students, $100,000~~
~~(cc) schools with at least 301 students and less than 501 students, $175,000.~~
~~(dd) schools with at least 501 students and less than 701 students, $250,000.~~
~~(ee) schools with at least 701 students and less than 901 students, $325,000.~~
~~(ff) schools with more than 901 students, $400,000.~~

~~After the initial distribution, if there are funds available in the Fund for any fiscal year, they will be distributed upon the schools Average Daily Membership for the previous year.~~

~~(ii) The Capital Revenue Redemption Account is to be set aside in a separate investment account at the school level. The Capital Revenue redemption Account may be used as collateral by tribes and/or tribal organizations for the purpose of borrowing funds for new school construction.~~

~~(d)(1) Beginning in the fiscal year following the enactment of this provision, the Division of Facilities Maintenance in the Bureau or Department of Interior shall not be involved in facilities improvement or repair projects (both minor and major), or new construction, or alteration and renovation (major and minor), health and safety or any other facilities account with respect to schools receiving funds under this section.~~

~~(3) Any other provision of law notwithstanding, any monies which have been appropriated, whether committed or not, for schools under this section, shall remain designated for those schools. The portion of the savings occasioned by the restruction of Facilities Management and improvement program caused by this~~

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~~section shall be distributed to the schools under this section.~~

(c) Authorizations - there are hereby authorized to be appropriated for
fiscal year 2000, an amount equal to $75000.000.. such amount to be divided
equally between the two funds established under this section. Thereafter, there are authorized to appropriated such sums as may be necessary.

Section 4 - "The Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq. is further amended by changing the following references to Part B ofTitle XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) wherever they are found in the Act:
(a) All references to section 1126 shall be changed to "1127"; and

(b) All references to section "1126 shall be changed to "1128'

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Appendix F Appendix F for the Written Statement of John Cheek, Executive Director, National Indian Education Association

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Statement of the
NATIONAL INDIAN EDUCATION ASSOCIATION
Before the
EARLY CHILDHOOD, YOUTH AND FAMILIES SUBCOMMITTEE
of the
EDUCATION AND THE WORKFORCE COMMITTEE
on
EXAMINING EDUCATION PROGRAMS BENEFITTING
NATIVE AMERICAN CHILDREN

Submitted by
John W. Cheek, Executive Director

July 20, 1999

Mr. Chairman and Members of the Committee:

The National Indian Education Association (NIEA), would like to thank the members of the Education and the Workforce, Early Childhood, Youth and Families Subcommittee and especially Chairman Castle and Representative Kildee for providing the opportunity to present comment on Education Programs Benefitting Native American Children as they relate to the reauthorization of the Elementary and Secondary Education Act (ESEA). NIEA is the largest and oldest national non-profit organization representing the education concerns of over 3,000 American Indian and Alaska Native educators, school administrators, teachers, parents, and students. This year NIEA celebrates its 30th anniversary as a national advocate on behalf of Indian people. NIEA has an elected board of 12 members who represent various Indian education programs and tribal constituencies from throughout the nation.

I have been involved in Indian education programs for over twenty years. Eighteen of those years have been with programs administered under the currently designated Title IX of ESEA, or as they are more commonly referred to as Office of Indian Education (OIE) programs. My experience includes directing and administering a local public school formula grant program and working as a student advisor for five years. I have also directed a tribal adult education program, worked on numerous discretionary grant programs, consulted with two of the former

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Indian Technical Assistance Centers (ITACs), and most recently worked as acting executive director with the National Advisory Council on Indian Education (NACIE) for over seven years. I was also able to acquire a master's degree in Education Administration though the Educational Personnel Development (EPD) program authorized under Title IX. All of these programs have been authorized under the current or previous authorization of ESEA. If these programs are intended to advance education for Indian people and provide the avenue for giving back to the Indian community, then I am only one of thousand's of Indian individuals who have had the opportunity to benefit from this remarkable program. Our comments today provide insight into how Indian educators nationally perceive the Administration's proposal for the reauthorization of ESEA. The proposed ESEA will dramatically change the structure of Title IX. While we support the effort of the Administration to make the program more accountable to state and national standards, we are concerned that the focus detracts from the original law's intent. We will expand on this later in the testimony. We respectfully request that other Indian organizations and individuals who did not have the opportunity to present testimony today be allowed to submit their comments for the record.

American Indians and Alaska Natives Today

Today there are over two million American Indians and Alaska Natives living in the United States. The population of Indians increased substantially between 1980 and 1990 from 1.4 million to 2 million, representing a 43 percent increase. The 2000 Census will likely show a marked increase with some early estimates showing the population growing to over 3 million. We are a young population compared with the public at large. According to the 1990 Census, 40 percent of the Indian population is under the age of 20 compared to 28 percent nationally. There are 557 federally recognized tribes in this country, many of which are located on reservations in 23 states. There are also dozens of non-federally and state-recognized tribes throughout the country as well.

There are approximately 600,000 Indian students attending the nations public, private, and Bureau of Indian Affairs (BIA)/tribal schools. The primary provider of Indian education services is the Department of Education's Office of Indian Education (OIE). In the current school year (FY1999) there are 415,297 public school Indian students and 45,485 BIA students receiving

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services through this program for a total of 461,000. The number of grants awarded in 1999 includes: 1,120 to public schools; 84 to BIA-grant/contract schools; and 70 to BIA-operated schools for a total of 1,274 awards. Since 1989, the number of students being served through OIE programs increased by over 88,000 students (23 percent). Funding over the same period, however, increased by only 18 percent to $62 million in 1999. BIA schools have been eligible to apply for funding through the Office of Indian Education since the 1988 reauthorization of ESEA.

As has been the case with OIE's student count, so have BIA enrollments increased over the past ten years. The 1989 enrollment was 39,000 compared to 51,378 students in 1999. Today, BIA students attend 185 federally-operated or contracted schools located in 23 states. The general trend in BIA education shows tribes beginning to assume more control over local education programs. This trend is likely to continue as tribes become more sophisticated in their abilities to manage their own affairs including administration of education programs.

Between 1980 and 1990, the high school completion rate for American Indians living on reservations increased by 11 percent from 43 percent to 54 percent. The 1990 Census identified 9 percent of American Indians and Alaska Natives over the age of 25 with a bachelor's or higher degree compared with 20 percent nationally.

The Indian Education Act of 1972

In the 1930's state schools became involved with Indian education on a compensatory basis under federal legislation called the Johnson O'Malley Act. However, Indian people were not given the opportunity in either the operation or the direction of their own education. It was not until the 1960's that Indian people had their educational needs brought to national attention. In 1968, the Congress created a Subcommittee on Indian Education, Chaired by Robert F. Kennedy Jr., which held hearings throughout the country during 1968 and 1969. The report documented the deplorable health, safety and economic conditions facing Indian people in their communities and the lack of effective education models for Indian students. Dropout rates of 100 percent were not uncommon in many reservation areas around the country. The hearings resulted in major federal legislation, which afforded Indian people a first real opportunity to participate in the policies and programs that affect their educational needs. This new legislation was signed into law and called the Indian Education Act of 1972 (Public Law 92-318). The Act provided

supplementary funds for new and innovative programs for Indian students. The initial appropriation under this Act was $18 million.

To date, no other single piece of legislation, has permitted more far-reaching impact of educational achievement for American Indian and Alaska Native people than the Indian Education Act of 1972. Without these programs there would be little educational emphasis linking the unique culture of Indian people with public education. However, even with the focus of Indian Education programs over the past twenty seven years, there still remains an educational gap that shows Indian students achieving at a rate lower than all other ethnic groups. Most Indian educators agree that were it not for the programs offered through the Office of Indian Education, Indian students would still be achieving at levels lower than they do today.

1999 Reauthorization of ESEA and Implications for Indian People

The Administration's proposal for the reauthorization of the Elementary and Secondary Education Act makes several changes to Indian education programs. First, it eliminates all unfunded authorizations within the Office of Indian Education which NIEA opposes. The programs designated to be eliminated include: Indian Fellowships; Gifted and Talented Programs; Grants to Tribes for Education Administration, Planning and Development; and Adult Education. Indian Fellowships and Adult Education programs were last funded in 1995. The remaining programs have never been funded since being authorized in the 1994 reauthorization of ESEA. Below we address the major provisions of OIE programs and the impact the proposed legislation will have if passed in its present form.

Tribal Education Departments

The Tribal Departments of Education authority has been in existence for four years and has never been recommended for funding within the Department of Education budget hierarchy. Since its authorization NIEA has advocated for at least $3 million to assist tribes in developing their education department infrastructures. As tribes move toward more local control over education programs, they will need the ability to manage and design programs that align with tribal codes and state/national assessment criteria. The Bureau of Indian Affairs has a similar authority, but it has never been funded, except for one $100,000 grant to the Mississippi Choctaw

ındian Nation several years ago. Although no funding is provided in the President's budget, NIEA recommends at least $3 million for tribal departments of education. We believe that sufficient funding should be provided to assist tribes in planning and developing their own centralized tribal administrative entities to accomplish their goals in accordance with school reform and accreditation standards. Whether this is accomplished through the Department of Education or Interior is irrelevant given the recent trend to convert more schools from BIA to Tribal control.

Adult Education Program

The Adult Education program was funded for many years and clearly addressed a major need in the Indian community. NIEA has consistently advocated for this program and has identified adult education as one of the major priorities for Indian people in 1999. After funding for the program was eliminated in 1995, Members of Congress looked at the idea of creating a similar program under the Adult Education Act which was then undergoing its own reauthorization. The proposal was dropped when the Office of Vocational Education (OVAE) data indicated that American Indians seemed to be served well under State adult education programs. NIEA has always been concerned with the data collection efforts of the Department and they way they count the number of Indian participants. The practice of self-identification typically does not include any type of documentation to identify an individual as a member of a certain tribe and as a result, we feel the numbers acquired through most Department of Education studies are greatly inflated.

The adult education program was a success because it went to where the Indian adults were, in their communities. The reason many Indian adults did not finish high school was because of the difficulty in trying to cope in a non-Indian environment. Adult education programs assisted on average anywhere from 5,000 to 11,000 participants annually. After the Department of Education declined to request funding for the Adult Education Program, appropriators simultaneously cut BIA's adult education budget in half to $2.5 million which is where its current appropriation request is for 2000. Prior to 1996, the Indian adult education effort of the federal government exceeded $10 million.

Gifted and Talented

The Gifted and Talented authority has been in effect since 1988 and federal officials have been reluctant to fund an outright Indian-specific program. The authority, to our understanding, was seen as overly prescriptive and would have required the Secretary to fund two gifted and talented centers at tribal colleges, plus several demonstration grants, including other projects with BIA schools. A 1999 Longitudinal study on eighth grade students reported the average participation in programs specifically designated for gifted and talented students was about 8.8 percent. The American Indian and Alaska Native participation rate is only 2.1 percent in comparison. NIEA supports gifted and talented programs for Indian students as a means of increasing their representation in increasingly high technical professions such as medicine, engineering, computer technology, and the math and science fields. From recent data surveys, the representation of Indian participants in these areas is extremely low.

Indian Fellowships

The Department and the Administration proposed the repeal of the fellowships authority in 1993-94, arguing that the program didn't create any real incentive for Institutions of Higher Education (IHEs) to make an effort to educate Indian students. It was assumed that a better approach was to pursue IHE-based programs rather than a costly grants-to-individuals program. An Inspector General's report in August 1993 detailed the problems of administering the fellowship program to individuals rather than to institutions of higher education. Lack of permanent leadership in OIE, and insufficient staff resources led to the program being abandoned by the Department in favor of other approaches to assisting postsecondary Indian students.

As a former staffer with the National Advisory Council on Indian Education (NACIE), which once had the authority to review Indian fellowship applications prior to funding, there was a consistent gap in meeting the postsecondary needs of Indian students. Those applications slated to be funded were always rated at 100 points or the maximum allowable. Even dozens of applications well below the cut-off would be highly-scored as well, but could not be funded due to funding limitations. On average 600 to 800 applications would be received in any given grant cycle and of this only 150 applications on average could be funded. Between 1985 and 1994 the number of applications awarded dropped from 221 to 80 due to funding reductions. The last year

of funding provided awards to 75 students. Between 1985 and 1996, a total of 1,900 students went through the Indian Fellowship program. The program was eventually phased out in 1996 after allowing those who received prior year awards to complete their programs.

The costs of providing scholarship assistance to Indian students, in our opinion, outweighed any perceived management difficulties within the Department. While current initiatives focus on teacher training, which is also needed, there are no specific higher education programs that ensure a finite number of Indian applicant's enter other fields of study. The Indian Health Service program allows for a little over 100 students to enter the health professions yearly and BIA scholarships, as administered by tribes, assist less than 10,000 students with an average of $3,000 per student. The Department of Education estimate for the number of Indian students being served by postsecondary institutions is over 130,000. The current estimate in the number of Indians being served by specific Indian higher education programs is 35,000 which includes 25,000 tribal college students. How the remaining 105,000 Indian students are being supported in postsecondary institutions is a questions that NIEA would like to have answered.

Indian Technical Assistance Centers

The 1994 reauthorization of ESEA eliminated six Indian Technical Assistance Centers (ITACs) which provided programmatic-based assistance to formula grantees nationwide. With the advent of the new Comprehensive Regional Technical Assistance Centers in 1994, fewer and larger centers were thought to better provide for the technical assistance needs for programs in the field for all Department of Education K-12 programs. The concern at the time was that Indian grantees would receive fewer technical assistance opportunities without a center specifically identified for their needs. From a cursory review of recent Indian grantees we found that indeed technical assistance among Indian grantees was lacking in sufficient quality and quantity.

The 1999 proposal for the reauthorization of ESEA plans to eliminate these centers as being ineffective in meeting the demands at the local education agency level. The focus will change by having local districts and states assume the technical assistance needs of their schools. NIEA has had little data to support how well the current comprehensive centers have met the needs of Indian grantees, but our estimation is that they have been unable to serve all 1,200 grantees who make up the formula program under Title IX. The previous ITAC's were regionally

dispersed and better able to meet the needs of Indian projects by providing in-service workshops on a variety of topics associated with OIE programs. In relation to NIEA, they served a valuable service in showing how well projects could be designed based on systemic reform and schoolwide approaches being implemented by the Department. The new reauthorization does indicate that two categorical centers would be developed that would meet the needs of special population groups. One would be targeted to the specific needs encountered by Indian programs. NIEA fully supports a return to technical assistance centers to assist local Indian grantees in meeting their educational goals.

Indian Education Executive Order

In August of 1998, President Clinton signed Executive Order 13096 on Indian Education It had as its centerpiece initiative six goals that federal agencies should meet. These include: 1) Improving reading and mathematics; 2) Increasing high school completion and postsecondary attendance rates; 3) Reducing the influence of long-standing factors that impede educational performance, such as poverty and substance abuse; 4) creating strong, safe, and drug-free school environments; 5) Improving science education; and 6) Expanding the use of educational technology. These goals laid the groundwork for federal agencies to begin coordinating efforts and resources to begin addressing the education needs of all American Indians and Alaska Natives. NIEA's overriding concern in light of the Administration's ESEA proposal is how a plan that removes such key authorizations could even begin meeting the goals being espoused by the Executive Order. The language of the order clearly commits the Administration to comprehensive actions to improve education of American Indian people, but doesn't make any commitments with respect to individual programs.

All of these provisions could be used to implement the Executive Order in one form or another. The adult education provision, which focuses primarily on adult literacy, could serve as a "pipeline" for future teachers, especially in line with the proposed American Indian Teacher Corps which is in the Administration's budget request at $10 million. The Indian Fellowship program, while very expensive, could serve as a gateway opportunity to under represented professions. The Gifted and Talented program would help identify effective practices that could be applied to all Indian students.

But the provision that may have the most compelling link to the Executive Order is the tribal departments authority which would provide funding support to tribal governments to create and/or strengthen educational administrative structures within the tribal organization. By creating a more stable tribal structure, the tribes could more readily collaborate with the SEA's and the LEA's as directed in the Executive order. By all accounts, the Department of Education has historically opposed this provision arguing that this should be the responsibility of the Bureau of Indian Affairs. NIEA believes both agencies need a hand in ensuring Tribal Departments of Education succeed. One for the role of tribal governance and one for the needs of the Indian learner. What better example could there be of federal agency coordination than that envisioned by Tribal Departments of Education? NIEA believes that it would provide a much needed boon to the Department's relationship with tribes and reinforces the Administration's commitment to the executive order.

Bureau of Indian Affairs (BIA) Education Programs

The federal government is responsible for two education systems. These include the Department of Defense schools and those operated by the Bureau of Indian Affairs. Although actual information on DOD schools has been difficult to obtain, we would venture to say that BIA schools are less well funded than their DOD counterparts. One example is the current $800 million backlog in repair/renovation affecting all BIA schools.

In regards to education programs administered through the Department of Interior's Bureau of Indian Affairs, there are several which benefit Indian students attending these schools. As mentioned earlier, there are 187 schools that are administered by the BIA. They provide education services to over 51,000 American Indian students. The main K-12 program category within the BIA is called School Operations which administers an array of educational programs including early childhood, disability education services, higher education scholarships, school statistics, etc. The BIA educates approximately 10 percent of the American Indian and Alaska Native K-12 population in the U.S. Below are the various education components within the School Operations category.

1. **Indian School Equalization Program (ISEP) Formula.** The Indian School Equalization Program provides formula-based funding for 185 federally-operated and contracted schools serving 51,378 students. The President's FY2000 request is $319.9 million compared with the FY99 actual of $306.2 million for this program. There are several types of schools funded with ISEP funds including BIA-operated, grant, and contract elementary and secondary schools. The fiscal year 2000 request reflects a 10 percent reduction in the student count from the prior year. While there was a decrease in student enrollment in school year 1998-1999, the BIA expects an increase of 2.5 percent for school year 1999-2000. The Weighted Student Unit (WSU) amount for school year 1998-1999 is $3,199. The estimate for 1999 is $3,238 and $3,285 in 2000. Since 1993, NIEA has recommended a funding level of $3,500 per WSU. The proposed $3,285 per WSU is still far below the average per student expenditure by public elementary and secondary schools, an amount reported by the Department of Education's National Center for Education Statistics (NCES) to be $7,317 per student in school year 1996-97. In addition, the enrollment for BIA schools have consistently grown from 39,911 in 1987 to 51,378 in 1999.

2. **Family and Child Education (FACE) Program.** The FACE program was first funded in 1992 and was designed to begin educating children at an earlier age through parental involvement at home and to coordinate FACE components. We request that the FACE program be funded at the FY1994 level of $7.5 million. Currently there are 22 FACE sites, however the BIA could use a FACE program at each of its elementary schools if the program were sufficiently funded. The FY2000 request is $5.5 million and is $83,000 more than 1999.

   In FY1999, the Bureau funded 22 sites to address the literacy needs of the family and support parental participation in the education of their children. The program serves about 1,800 children and 1,800 adults from a total of 1,700 families in two settings. The program also helps an additional 3,200 children in grades K-3 by providing teacher training in various teaching methods. The program also assists approximately 50 adults per year acquire their GED.

3. **Institutional Disabled.** In FY 1999, services were provided for approximately 166 Indian children ages 5-21 who were housed in 47 different institutions. The FY2000 request is $3.7 million and is $7,000 less than 1999. Appropriations in FY1999 provided for services to approximately 166 Indian children ages 5-21 in 47 different institutions. These students require 24-hour institutionalized care.

4. **Tribal Departments of Education (TED).** Tribal Departments of Education have not been funded consistently over the past several years. NIEA believes that the program should be funded in order to provide assistance to tribes in planning and developing their own centralized tribal administrative entities to accomplish their goals in accordance with school reform and accreditation needs. This would be appropriate given the recent trend to convert more schools from BIA to Tribal control.

5. **Substance Abuse/Alcohol Abuse.** This program has not been funded since 1994, however, the Administration has announced in the FY2000 budget request an earmark of $400,000 to deal with alcohol and substance abuse in Indian communities. NIEA is pleased that the Administration has reinstated this valuable program that will deal with the severe substance abuse issues facing our Indian youth.

6. **Scholarships.** The FY2000 request is $28.6 million and is $919,000 less than FY1999. Since FY1994, allocations for tribal college scholarships have fallen from $31 million to less than $29 million in the 2000 request. NIEA has identified the lack of funding for Indian scholarships as one of the biggest need areas in Indian education. One of NIEA's major priorities is to increase funding for all postsecondary education programs for American Indians and Alaska Natives. The needs of Indian students pursuing postsecondary education are often neglected, especially when critically-needed programs are cut or eliminated such as the Department of Education's Office of Indian Education Fellowship Program in 1996. The 1990 Census identified the majority of the Indian population as being under the age of 25 compared with 17 percent nationally. The BIA estimates that 9,800 students will be awarded

scholarships through this program with an average award of $3,000. The requested reduction means 306 Indian students will be denied scholarships. The Department of Education estimates that there are 130,000 American Indian and Alaska Native students attending postsecondary institutions nationally. NIEA is concerned that a major discrepancy exists in the funding that Indian students receive in their efforts to obtain a higher education degree. We encourage the committee and the Administration to increase funding for Indian higher education scholarships.

7. **Adult Education**. Next to Indian scholarships, adult education programs continue to be one of the most critically-needed areas in Indian communities. Adult education programs have a twofold purpose in allowing Indians adults who did not finish high school to obtain their General Educational Development (GED) degree and/or increase their life-coping skills. The BIA estimates that approximately 20,000 Indian adults participate in the program. The FY2000 request is $2.6 million and is a reduction of $28,000 from FY1999.

   The elimination in 1996 of the Adult Education Program in the Department of Education's Office of Indian Education (OIE), put a strain on the limited resources of the BIA and did little to focus resources on the majority of Indians living off-reservation. From personal experience, older Indian adults are less likely to attend state-operated programs and tend to be more successful in Indian-operated programs.

8. **Johnson-O'Malley (JOM) Program**. The JOM program provides supplemental educational services for 272,000 American Indian students in 23 states. In 1996, the JOM program was transferred to Tribal Priority Allocation (TPA). Prior to 1996, the program had been earmarked for zero-funding on several occasions. While its placement under TPA has allowed for a measure of stability, it has also placed it in a situation where a tribe that exercises its consolidation options under P.L. 102-477 legislation may also utilize JOM funding. The National Johnson O'Malley Association has been a vocal opponent of the placement of JOM under TPA and in October, 1998 the NIEA membership passed Resolution No. NIEA-98-00 opposing such a placement.

The JOM program has at one time or another been targeted as being duplicative of the Department of Education's Title IX, Office of Indian Education (OIE) program. The Johnson O'Malley Act of 1934 was intended to facilitate the entrance of Indian children into public schools. Unlike JOM, OIE programs specifically concentrate resources on direct educational enrichment programs. Title IX is the only federal funding that provides for activities and services that meet the special educational and culturally related academic needs of American Native students in elementary and secondary schools. In addition, only federally-recognized Indian students may participate in JOM programs. The OIE program allows members of federally-recognized, non-federally-recognized, and state-recognized tribes, and groups petitioning for federal recognition to participate in the program. The FY2000 request is $17.5 million and is a reduction of $611,000 over 1999. Since FY1995, the funding for JOM has decreased by nearly $7 million from $24.3 million to less than $18 million in the 2000 request.

Conclusion

On behalf of the NIEA Board of Directors and the NIEA membership, I would like to thank the committee for allowing us to share our concerns today. We appreciate the opportunity to provide comment on what is probably the most important aspect of life in Indian communities today. Once a tool to decimate and forcibly assimilate Indians into modern day existence, education has proven to be an effective deterrent to the many social ills facing Indian people today. The lack of a consistent and focused federal policy on Indian education, however, has only delayed the educational advancement of this country's only indigenous population. Until a clear and direct approach is undertaken to elevate every education level of all American Indians and Alaska Natives in this country, we will continue to see the dismal statistics that continue to plague Indian Country. We hope that our comments here today have helped to clarify the need that continues to exist in Indian education. I would be happy to answer any questions the committee may have.

BEST COPY AVAILABLE

Appendix G the Written Statement of Don Sims, Superintendent, Riverside Indian School, Anadarko, Oklahoma.

My concern for the Indian students has always been focused on the reality that to help our young people reach any educational goals we must first assure they have a safe, supportive environment in which to "prepare" to learn.

An experience very early in my life with B.I.A. schools set the tone for me as far as really meeting students needs. Since that time of reality awareness in 1973, I have tried to find the door to the other side of our schools.

At Sherman Indian H.S. in Riverside, California, I felt we were really close several times, but always a piece of the circle was missing.

My realization that we were doing this backward came to me, finally, only after I had seen literally hundred's of very intelligent young people sent from our schools before we started helping them, back to the same environment where they learned the behavior in that caused them to be banished from our/their schools.

All people, young and old can learn. Some of the important things young people must learn are, respect for themselves and others, that helping the less fortunate is a good thing, respect for the Mother Earth, that all people are valuable, that you must grow as a whole person, that education is important, that adults do care about them, that most things are possible if given an equal chance.

We can have the best academic programs ever created, but if we do not address the out of school time we will never reach anywhere close to the level we want.

At Riverside Indian School, we have with no extra money created an environment that is focused on meeting student need:

Example: ACE – Accelerated Curriculum Education

We always have older students 18-19-20, who have many total credits but do not have the basics, Math, English, usually. So, we created a school within a school to allow those students to concentrate on just the subjects they need and allowed them to work at their own pace. We had 57 participants in our first year. In 1998 we had a total of 24 graduates, in 1999 we had 71, all but 25 were ACE students.

Example: Opportunity Dorm

We have a weekly ineligible list that tells us of students who are failing classes. We created a separate dorm where these students focused on academic classes. No TV, no radio, no walkmans, only support with the classes they were failing. The first week we had 93 students, the second week 57, the third 12. We had many students request to be allowed to stay in the dorm, because of the success they had.

Example: Transition Dorm

We have a No Tolerance policy concerning extreme behavioral infractions In the past the students were usually suspended or expelled. We created a dorm where students have a chance for a Due Process hearing or the Transition Dorm. The Transition Dorm is much like the opportunity dorm, but there is a heavy counseling component and scheduled changes with physical exercise and group behavior activities. As a result of these and other programs that we do, without any extra money, we have increased our retention and academic achievement.

This year we are not giving F's as a final grade to our students. We will support a student in the class until they pass the subject. Eventually we will have an 80 to 85 percent mastery for every student for each subject.

I share this with you to show what can be done within our present system and to offer a few suggestions for considerations of changes that would help us use the money we do get in more efficient ways.

Give all the schools all their money up front and let us all work with it like the grant schools. We are held accountable now so hold us accountable in the way the grant schools are.

Let the school deal with their own personnel issues. Our region for this now is in Albuquerque; they have a 5-person office for 5,000 employees. Not very workable.

Make all of our students IRG and do not have employees who should be helping students, instead they are doing intensive paper work for certification purposes.

Let parents choose where their children go to school. If a school is deficient in how they help students learn, why should children have to attend if there are other options.

Increase year round school operations for all students. Many do not have a place to call home, and some who do, should have the option of staying in a better place.

There are 168 hours in a week. We address 36-40 of those hours with classes credited academic, what we do in the remaining hours dictates success or failure for a very large percentage of our young people. We must make those hours productive and commit to a world of hope and positive contribution to society.

Thank you for this opportunity to share with you our vision of how things can be.

Don Sims, Superintendent
Riverside Indian School

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
RIVERSIDE INDIAN SCHOOL
ROUTE 1
ANADARKO, OKLAHOMA 73005
(405) 247-6670
FAX (405) 247-5529

IN REPLY REFER TO

July 16, 1999

To Whom it May Concern:

This statement is from Mr. Stan Holder the Student Services Director at Riverside Indian School in Anadarko, Oklahoma.

We use this information as the foundation for our out-of-class time project for our students.

I agree 100% with Mr. Holder's statement.

Sincerely,

Don Sims, Superintendent
Riverside Indian School

Because Learning is a Bio-Psycho-Social process, certain Behavioral objectives must be met before Educational applications can be successfully applied and Learning or storing information in Long Term Memory can be accomplished. Students must be stabilized emotionally and assisted in developing the intrinsic constructs necessary for them to achieve the mental focus necessary for Learning to take place.

Due to the Dysfunctional environment which currently exists in the Native American Urban Community and on Reservations, Native American Children are not emotionally and psychologically developed to the point that traditional "stand alone" classroom applications can be effective in accomplishing the task of learning. Single Parent house holds, Parental and other family members addiction to Alcohol and other Drugs, Generational emotional deficits, Fetal Alcohol Syndrome/Fetal Alcohol Effect, and Identification with sub cultural manifestations "such as gangs", stand as barriers which must be overcome for Native American Students to become academically successful.

Behavioral programs which incorporate disciplinary concepts which not only address the acute behavior but also assist the student in developing emotional and mental constructs which will enable the student to not only be academically successful but socially successful also. These services are critical to the academic success of the Native American Student.

Study Skills programs which teaches the Native American student the basic skills of organization or study material, time management, and methods of study which maximize the storage of information in Long Term Memory are critical to the Academic success of the student. By providing organizational constructs which enable the student to be academically successful, self-esteem is enhanced and contributes to lowed levels of involvement in experimentation and addiction to Alcohol, Tobacco, and other Drugs, early sexual experimentation, and Gang related behavior and Identity.

Cultural and Alternative Activities and Recreational Activities which provide students a vision of the benefits of education while enhancing Native American Identity are essential in assisting students to develop and identity which is Native American and Successful. These activities also play a role in a Behavioral program based on Operant Conditioning which provides Positive and Negative Reinforcement.

Therapeutic Services which provide for Testing, Assessment, Diagnosis, and Treatment of Emotional, Psychological and Psychiatric deficits suffered by Native American Students are essential in assisting students in becoming Learning ready. Specialized services which address the needs of students who suffer from the disabling effects of Fetal Alcohol Syndrome and Fetal Alcohol Effect is essential in the educational format for Native American Students.

PERSONAL INFORMATION: Please provide the committee with a copy of your resume (or a curriculum vitae) or just answer the following questions:

a. Please list any employment, occupation, or work related experiences, and education or training which relate to your qualifications to testify on or knowledge of the subject matter of the hearing:

24 years in education

18 years in B.I.A. off reservation boarding schools

b. Please provide any other information you wish to convey to the Committee which might aid the members of the Committee to understand better the context of your testimony:

My testimony is from boarding school experience, but I have spent a great deal of time on reservations and in indian communities.

Please attach to your written testimony.

BEST COPY AVAILABLE

Committee on Education and the Workforce

Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: Donald L. Sims		
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the Committee).	Yes x	No
2. Please list any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1997: Title III Technology Gradt		
3. Will you be representing an entity other than a Government entity?	Yes	No x
4. Other than yourself, please list what entity or entities you will be representing: N/A		
5. Please list any offices or elected positions held or briefly describe your representational capacity with each of the entities you listed in response to question 4: N/A		
6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1997, including the source and amount of each grant or contract: N/A		
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing?	Yes N/A	No

Signature: _____ Date: 7/16/99

Please attach this sheet to your written testimony

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Appendix H The Written Statement Of Sandra Murie, Superintendent, Rocky Boy High Elementary Schools, Box Elder, Montana.

Rocky Boy Schools
School Districts 87J&L
Box 620 RR#1
Box Elder, Montana 59521

"Home of the Stars"
* Northern Stars *
* Morning Stars *

TESTIMONY PRESENTED BEFORE THE

HOUSE EDUCATION AND WORKFORCE
SUBCOMMITTEE
ON EARLY CHILDHOOD, YOUTH AND FAMILIES

REGARDING THE INDIAN EDUCATION ACT

SUBMITTED BY

SANDRA MONTEAU MURIE, SUPERINTENDENT
ROCKY BOY PUBLIC SCHOOLS
ROCKY BOY, MONTANA

JULY 20, 1999

BEST COPY AVAILABLE

Good Afternoon Mr. Chairman, Mr. Kildee, and members of the committee:

My name is Sandra Monteau Murie. I am representing Rocky Boy Public Schools. I'm from the Rocky Boy Indian Reservation located in North Central Montana. I am an enrolled member of the Chippewa Cree tribe there. I am presently entering my tenth year as the superintendent of Rocky Boy Public Schools. I also serve as member at large on the Board of Directors of the National Association of Federally Impacted Schools and Secretary on the Board of Directors of the National Indian Impact Schools Association.

Thank you for allowing me to testify today on the reauthorization of Title IX, the Indian Education title of the Elementary and Secondary Education Act. Your interest in Indian education is very much appreciated. As you know, most of the title IX Indian education funds are distributed to school districts by formula grants, in addition to a small amount of competitive grant funds.

ROCKY BOY PUBLIC SCHOOLS

Rocky Boy Public Schools serves just over 500 Kindergarten through grade twelve students and 160 pre-school children. The student body is almost 100% Native American. The majority are of Chippewa and Cree descent.

The Rocky Boy Reservation consists of 112,000 acres, held in trust by the United States government and has a taxable valuation of only $54,000. Therefore Rocky Boy Public Schools does not have the capability of raising adequate revenue by voted mill levies or bonds to support the general operations or construction needs of the school districts. Forty seven percent of the general operation budget of Rocky Boy Public Schools is funded by federal impact aid. *So we do appreciate continued support and any increases in the reauthorization of the federal Impact Aid program.*

THE TITLE IX PROGRAM AT ROCKY BOY SCHOOLS

Rocky Boy Public Schools has applied for and received Title IX Indian Education funds for many years. These funds have supplemented the instructional programs and provided the students at Rocky Boy the opportunity to improve their academic skills and enrich their lives.

I noted under Section 903(2) 9113(D) of the Administration's title IX reauthorization proposal that BIA schools are not subject to the statutory requirement relating to parent committees, proof of maintenance of effort and submitting their applications to the SEA. *I would submit that the same consideration be given to public school LEA's who have an all Indian school board or can acquire a waiver from the affiliated tribe.*

Presently 602 or 86% of the students attending Rocky Boy Public Schools are eligible to receive services under Title IX. This is according to the criteria outlined in the Student Eligibility Certification (ED 506) form. This form is used to certify that

individual students are federally recognized and to establish the districts' total eligible Indian student count during a designated count period for the purpose of generating funds under the Indian education formula grant program.

Ironically this same process is required of LEA's to qualify for Johnson O"Malley funds. So public schools are having to turn in the same certification on two separate forms. Under Section 906(2) 9116 (g), this process is waived for BIA schools. *I propose the Administration provide the same consideration to public school LEA's who apply for both JOM and Title IX programs.*

The Administration is proposing new language to address *system-wide activities* rather than direct services in regard to incorporating cultural responsive teaching and learning into the educational programs of students. *We agree and support such language.* At Rocky Boy Schools, We provide Title IX programs to all students as we do not separate out eligible students when providing supplemental program's to students.

The Title IX program at Rocky Boy Public Schools, through measurable objectives, provides a home school coordinator to do home visits to communicate with students and parents to increase attendance rates and lower drop out rates yearly using the 96-97 school year as a base year. Alternative educational, cultural and enrichment programs after school are provided to reduce the use and abuse of harmful substances, again compared to the base line year. Tutoring services are provided under this program to assist students in raising their grade point average. At the pre-school level, cultural material and Chippewa Cree Elders enrich the pre-

school language, history and culture curriculum. Incentives are provided in the elementary school to encourage reading and to annually improve grades, attendance and reading scores.

These activities were derived by input of the parents of our students through surveys, parent committee meetings and public hearings. The success of these activities are measured by the yearly increase in students' grades, achievement test scores, attendance and teacher records. External evaluators are hired yearly to assess the district records and determine to what degree these objectives are successfully met.

On the average our school district receives between $80,000 and $90,000 a year to provide these services. This past school year this averaged about $140 per eligible student.

Data collection is done each year to profile student achievement. From the spring of 1996 to the spring of 1999, fourth grade reading achievement test scores have gone from 39.8 NCE's to 48.2 NCE's. From the spring of 1996 to the spring of 1999, fourth grade math achievement test scores have gone from 30.2 NCE's to 40.0 NCE's. However, we have also seen decreases in the NCE's in grade eight reading and math scores and a decrease in grade eleven math NCE's but a nice increase from 32.7 to 41.1 NCE's in grade eleven reading scores.

NCE in the mean normal curve equivalency that individual students are placed on when compared to student scores nationally. Ordinarily NCE's in the thirties and forties is not satisfactory. The fiftieth NCE and above is what most districts strive

for. However, to see these increases over this period of time is very satisfactory. A lot of research goes into identifying why and what is causing the increases and decreases to plan strategically to improve these scores.

In comparing average student attendance from 1995-96 to 1997-98, student attendance in grades K-6 decreased from ninety one to ninety percent. However the average student attendance in grades 7-12 increased from eighty four to eighty nine percent.

To improve academic skills and enrich the lives of students at Rocky Boy Public Schools, several innovative programs and services are being provided though our Title IX program. In some cases, students are referred to these programs and other student voluntarily participate in them.

I will discuss four of the programs we use to implement the objectives of the Title IX program. First, student tutoring is provided after school by teaching staff or their peers to assist students in completing assigned work and receiving credit. Second, credit can be earned in math and science when students participate in the two week AIM WRIGHT program. The goal of AIM Wright is to create an environment where teaching staff and students work together in a non-classroom environment. Title IX funds specific projects to help our students increase their math and science skills. Math and science activities are carried out utilizing technology and cooperative learning approaches with the teacher as part of the team. The students gather, as an example, water or plant specimens and data in the afternoon on field trips then enter their findings on the computer the following morning. At the end of the two weeks

students present their projects and findings to an audience. This allows them to do oral presentations using technology to assist them. This program has motivated students to participate in local, state and national science fairs and proudly bring home awards.

A third innovative program is the Summer School on Wheels program. Like the math and science program, it has a component to help improve the academic skills of students. This program allows students to participate in five to ten day field trips and be exposed to learning experiences beyond the classroom. As an example, twelve students just returned from a ten day outdoor class at the archeological digs in Drumheller, Alberta, Canada and a chance to study the glaciers in the Rocky mountains of western Alberta. Students camp out and are assigned duties and chores, thus learning other life skills as well. This allows students an enriching academic and life long experience and also the ability to earn science credit.

Fourth, we provide access to enrichment activities which are not available on the Rocky Boy Reservation. Activities such as swimming, bowling, roller skating, are provided on a scheduled basis and done in collaboration with other programs. Cultural activities such as listening to the stories told by Elders in the Cree language, participating in cultural drumming, singing and dancing is an excellent learning activity which we have found in student surveys to be a deterrent to the use and abuse of harmful substances and in building self esteem of our students. Parent involvement is a crucial part of this process as well. Parent training is provided to teach child rearing skills and prevention, intervention skills needed when raising children.

The above mentioned programs obviously take much planning and collaboration to augment the Title IX program.

TITLE IX DISCRETIONARY FUNDS

Under the Indian Education Act, funds are authorized for discretionary programs for professional development; planning, piloting and demonstration projects (PPD's); and adult education. The FY 1999 appropriations for all Indian Education Act discretionary programs was only $3.26 million.

We are requesting that discretionary funds for Title IX teacher training be increased to at least $12 million. The teacher training programs in the seventies funded by the federal government were very effective in reaching the grass roots level and training Native teachers. Now a new core of trained teachers are needed to replace that group who are going to be retiring over the next few years. The elimination of funding for such successful programs was truly regressive.

The demonstration or PPD funds need to be increased to at least eight million dollars. These funds are needed to meet the special needs of Indian students to allow pilot curriculum and programs to be developed and implemented such as those described in this testimony. *Indian organizations, tribes and public schools whose enrollment is primarily Indian should be given priority.*

Title IX Adult education funds need to be reinstated and funded at least with $12 million If the intent of this Congress is to create a self-sufficient population independent of government support through welfare reform, then the funds needed to

educate that population needs to be invested in this manner today. States provide little support for adult education programs on Indian reservations. If more adults receive an education they will be more supportive of their own children's education.

FACILITY NEEDS

Another topic of concern I wish to address with the committee today is the need for additional school facilities in our districts' at Rocky Boy. We are presently creating classroom space by using trailers and basement space suitable for storage. We use a stage off of the elementary gym, office space and even renovated shower rooms for classroom space. Based on our population projections and schematics developed to meet these projections, we will need to acquire at least $12 million dollars for construction of classroom space. Our neighbor district in Box Elder, Montana is in the same dire straits regarding classroom space. They are presently in need of several millions dollars in construction funds. This is a situation found throughout Indian country which was documented in the 1996 school construction survey undertaken of public schools on Indian lands by the National Indian Impacted Schools Association.

I appreciate the language the Administration is proposing be included in Title VIII Impact Aid supporting construction needs on Indian lands. And likewise we support the construction bills introduced by Senators Baucus and Hagel and Congressmen Hayworth and Pomeroy (S.897, H.R..1842). These bills recognize the construction needs of school districts in Indian country.

Forty years ago under the prior Impact Aid law, $400 million was spent on school construction some of which built schools on Indian lands. The latest assessment of $100 billion in school construction funds is needed nationally. School districts on Indian lands need at least $2 billion now to address the pressing need for additional classroom space and to replace forty to fifty year old buildings.

BLOCK GRANTS

I understand the interest some have in the idea of creating block grants to states to reduce the role of the Department of Education in administering funds. *No Indian education funds should be block granted to states as these funds are meant to serve a specific population and should continue to go directly to that population.* Otherwise these funds will lose their identity and the needs which was intended to serve will again be unmet.

Thank you Mr. Chairman and committee members for these few minutes you have taken to listen to my story and my concerns. The children of Rocky Boy Schools, as children in other public schools on Indian lands, have very special and unique needs. We continue to strive for the goal of a well-rounded education every child deserves. Please consider the legislative and funding recommendations contained in this testimony.

Again, on behalf on Rocky Boy Schools and the Rocky Boy community, I invite you to come and visit and see how Indian education funds directly benefit the students at Rocky Boy.

Committee on Education and the Workforce

Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: Sandra Murie, Superintendent		
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the Committee).	Yes X	No
2. Please list any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1997:		
3. Will you be representing an entity other than a Government entity?	Yes	No
4. Other than yourself, please list what entity or entities you will be representing:		
5. Please list any offices or elected positions held or briefly describe your representational capacity with each of the entities you listed in response to question 4:		
6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1997, including the source and amount of each grant or contract:		
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing?	Yes	No

Signature: Sandra S Murie Date: 7/16/99

Please attach this sheet to your written testimony.

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PERSONAL INFORMATION: Please provide the committee with a copy of your resume (or a curriculum vitae) or just answer the following questions:

a. Please list any employment, occupation, or work related experiences, and education or training which relate to your qualifications to testify on or knowledge of the subject matter of the hearing:

I have 25 years of experience in education of Indian children. I have been involved in or have administered Title IV now Title IX Indian Education Programs during these years in education. My own children and now my grandchildren have been able to benefit academically by the enriching experiences Title IX provided.

b. Please provide any other information you wish to convey to the Committee which might aid the members of the Committee to understand better the context of your testimony:

Title IX funds are used to enrich the basic instructional and academic programs at Rocky Boy. These supplemental programs would not be available otherwise as this community does not have resources nor a tax base to provide enrichment programs that Title IX provides.

Please attach to your written testimony.

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